

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO
3 UNITED STATES OF AMERICA,
4 Plaintiff,
5 vs. NO: CR-15-4268 JB
6 ANGEL DELEON, et al.,
7 Defendants.

8
9 Transcript of excerpt of testimony of
10 ROY PAUL MARTINEZ
11 April 20, 2018, and April 23, 2018
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1 April 20, 2018

2 THE COURT: All right. Does the
3 Government have its next witness or evidence?

4 MR. CASTELLANO: I think so, Your Honor.
5 It would be Roy Paul Martinez.

6 THE COURT: All right, Mr. Martinez, if
7 you'll come up and stand next to the witness box,
8 before you're seated, my courtroom deputy,
9 Ms. Bevel, will swear you in.

10 ROY PAUL MARTINEZ,
11 after having been first duly sworn under oath,
12 was questioned, and testified as follows:

13 THE CLERK: Please be seated. Please
14 state your name and spell your last name for the
15 record.

16 THE WITNESS: Roy Paul Martinez.
17 M-A-R-T-I-N-E-Z.

18 THE COURT: Mr. Martinez. Mr. Castellano.

19 MR. CASTELLANO: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. CASTELLANO:

22 Q. Good afternoon, Mr. Martinez.

23 A. Good afternoon.

24 Q. Are you now or have you ever been an SNM
25 Gang member?

1 A. Yes, I was SNM.

2 Q. Before you were an SNM Gang member, were
3 you a member of any other gang?

4 A. Yes, San Jose street gang.

5 Q. Where was that gang located?

6 A. Albuquerque.

7 Q. And you called it San Jose. Is it also
8 known as San for short sometimes?

9 A. Yeah, San Jo.

10 Q. When did you first join that gang?

11 A. When I was about 15.

12 Q. And why did you join a gang at 15?

13 A. Why?

14 Q. Yes.

15 A. Just hanging out with the homies; pretty
16 much just that.

17 Q. So when you were hanging out with those
18 guys, did that kind of seem like the thing to do at
19 that time?

20 A. Yeah, I didn't have a home life, really.
21 I was kicked out of my house, so I would stay with
22 my homies from the hood.

23 Q. As a result of getting kicked out, did
24 these guys kind of become like family to you?

25 A. Yes.

1 Q. How did you get into the gang?

2 A. Got ranked in, which is have to survive
3 about 15, 16 people fighting, beating me up at the
4 same time.

5 Q. For about how long?

6 A. About a minute, about a minute or two,
7 maybe less.

8 Q. Okay. So were all those people able to
9 participate in punching you or kicking you or
10 whatever they wanted to do?

11 A. Yes.

12 Q. Then at some point were you sent to
13 prison?

14 A. Yes.

15 Q. For what?

16 A. Aggravated assault with a deadly weapon,
17 firearm enhancement.

18 Q. Do you remember about how long was it that
19 you were sentenced for that first time in prison?

20 A. I was sentenced for three years with two
21 years suspended.

22 Q. Do you recall when that was?

23 A. In 1995.

24 Q. How old were you?

25 A. I was about 21. Maybe, 20, 21.

1 Q. What happened when you first got to
2 prison? What was the environment like?

3 A. They sent me to the main penitentiary in
4 Santa Fe. They were -- it was crazy. When I first
5 drove up, I was just a young kid, and I didn't
6 really -- I didn't understand prison, prison life,
7 or anything like that, so it was kind of
8 intimidating.

9 Q. When you said PNM, did you mention the Old
10 Main?

11 A. Yeah, the Old Main penitentiary where they
12 had the riot.

13 Q. That's what I was going to ask you. When
14 they refer to the Old Main, that's where the riot
15 actually happened?

16 A. Yeah.

17 Q. And you mentioned being kind of new to
18 prison and things of that nature. What did you do
19 when you got there? How did you pass your time?

20 A. Well, mostly just go to the yard, hang
21 out, just things like that, try to get adjusted to
22 it.

23 Q. And who would you hang out with, since you
24 were new to prison?

25 A. Well, first, I would hang out with just

1 the people in the cell block, what they call
2 neutral. They weren't cliqued up or nothing, so I
3 would hang out with them. And then a couple of
4 homies from San were in there, so I'd hang out with
5 them.

6 Q. So at some point did you figure out you
7 were from the same street gang?

8 A. Yeah.

9 Q. Earlier you mentioned a couple of things.
10 You said when you drove up to the facility. What do
11 you mean, when you drove up?

12 A. When I arrived, when they took me there,
13 the transport.

14 Q. So you don't literally drive yourself to
15 prison?

16 A. No.

17 Q. Is that a term people use in prison, when
18 they arrive at a facility?

19 A. Yeah. It's kind of like slang.

20 Q. You mentioned the term "cliqued up"; you
21 weren't cliqued up then. What does that mean?

22 A. Belonging to a prison gang.

23 Q. So was there a difference, then, from
24 belonging to a street gang, which was San Jo in your
25 case, and a prison gang?

1 A. Yeah.

2 Q. What was the difference?

3 A. From what I understood at the time, the
4 prison gangs -- they ran the prisons. They did all
5 the politics and everything in prison. And street
6 gangs were just wild, undisciplined, things like
7 that.

8 Q. So was it your experience or is it now
9 your experience that people who were in street gangs
10 when they arrive in prison join prison gangs?

11 A. Not all the time, but most of the time,
12 yeah.

13 Q. So in other words, could someone who was a
14 street gang member go to prison and decide not to
15 join a prison gang?

16 A. Yeah.

17 Q. And at some point did you join the SNM
18 prison gang?

19 A. Yes.

20 Q. About when was that?

21 A. A few months after I went to prison.

22 Q. How did that happen?

23 A. It just kind of -- I kind of got reeled
24 into it, I would say. It all started with when I
25 had problems with the LCs.

1 Q. Who are the LCs?

2 A. Another prison gang.

3 Q. If you can, tell the jury what the run-in
4 was with the LCs that you had.

5 A. Well, it's like when I got into some kind
6 of argument, or it was actually something that
7 happened on the streets prior to when I went to
8 prison. There was an altercation with me and some
9 girl's brother, and I ended up hitting him with an L
10 bar. And later on, when I went to prison, I found
11 out that that guy was related to the LCs in some way
12 through -- I guess his sister was married to one of
13 them, and they seen me in the visit, and that caused
14 all kinds of problems there after that.

15 Q. What's an L bar?

16 A. A tire iron, to use for when you change a
17 tire.

18 Q. Who was the person you saw at the prison
19 who was going to cause problems for you?

20 A. Mike Dallas. He was an LC at the time,
21 and I didn't know him personally, but I guess when I
22 had a visit with my wife that he -- his wife seen me
23 in there and pointed me out and explained the whole
24 thing. And from there, it just -- he called me out,
25 started telling me he's going to make a decision

1 what to do with my life, and things like that. And
2 I didn't understand. I just figured I was going to
3 bank with him, fight with him.

4 Q. What happened as a result of this at least
5 verbal confrontation initially?

6 A. He just told me that he was going to
7 decide what to do and for me to hang, kick it, kick
8 back, and that he was going to decide what he was
9 going to do, I guess; like what he's going to do
10 with me. So I didn't -- I just assumed he was just
11 going to call me out one day and we were going to
12 fight.

13 Q. And what eventually happened with that
14 situation?

15 A. I ended up talking to a few people in
16 there, and they warned me, saying that the LCs were
17 going to probably hit me, so I needed to strap up
18 and get ready because Mike Dallas was -- if he calls
19 me out, he's going to take me out.

20 Q. What does it mean, to strap up?

21 A. Get a shank, get a weapon of some kind,
22 mostly a shank.

23 Q. Did anybody help you by providing you with
24 a weapon?

25 A. Yes. Little Chaparro. He was SNM at the

1 time. And Moscow and Charlie Sedillo. Them three
2 helped me.

3 Q. Did you know Moscow by any other name?

4 A. Matthew Cavalier.

5 Q. What did they do for you?

6 A. They -- well, Chaps, he worked in -- I
7 guess making license plates, where they used to make
8 license plates. And he had some weapons in the yard
9 already. And Charlie Sedillo got me a weapon
10 somehow in there; I don't know how. And it was an
11 icepick, I believe, and I got ready with that. And
12 he also suited me up, strapped me up with National
13 Geographics when -- the day that Mike Dallas called
14 me to the yard.

15 Q. What did you do -- a National Geographic
16 is a magazine; right?

17 A. Yes.

18 Q. What do you with that magazine?

19 A. Just -- he put it to guard my chest, like
20 one book to guard my chest, one to guard my sides,
21 and then tied it up with a belt, two belts.

22 Q. Was that like putting on armor to go to
23 war?

24 A. Yeah, he described it to me as protecting
25 my heart, too, from the ice pick.

1 Q. You called someone Chaps earlier. Is that
2 the same person you referred to as Chaparro earlier?

3 A. Yeah, Chaparro. I think his name is
4 Manuel Maldonado, or something like that. I just
5 knew him as Chaps.

6 Q. At some point did you find yourself in the
7 yard with Mike Dallas?

8 A. Yes. Later on that night, in order to
9 pass the metal detector, we had to -- Chaps and
10 Moscow made a little ruckus with the COs to catch
11 their attention, and we made it through the metal
12 detector for that ice pick that I had. And then
13 outside Chaparro already had one buried double-edged
14 knife. And we got that one, and both of them --
15 Moscow helped tie both of them to my hands, so I had
16 one tied on each hand.

17 Q. You mentioned going past the COs. Are
18 those the corrections officers?

19 A. Yes.

20 Q. Were they supposed to be inspecting you
21 for weapons before you went to the yard?

22 A. Usually it was just one CO standing right
23 there monitoring the metal detector. And so, yeah,
24 they were just monitoring to make sure we don't take
25 weapons and stuff like that.

1 Q. And despite the fact that they were
2 monitoring, were you able to get a weapon past the
3 corrections officer and into the yard?

4 A. Yes.

5 Q. And you also mentioned a weapon in the
6 yard.

7 A. Yes.

8 Q. So were there also weapons out there?

9 A. Yeah, Chaparro had stashed them there
10 earlier, you know, another day or something. I
11 don't know.

12 Q. And from your experience, was it common
13 for people to have weapons in prison?

14 A. Yes.

15 Q. When you referred to the yard, what is the
16 yard?

17 A. Recreation yard where we go outside,
18 outside of the cell blocks.

19 Q. So back in the 1990s, when you arrived at
20 prison, was it a big open yard? Were there smaller
21 cages? How did it work back then?

22 A. I mean, it was open, wide open to
23 everybody. There wasn't cages or nothing. It was
24 just a wide-open yard.

25 Q. Okay. So even if there were rival gangs,

1 could they be in the yard at the same time back
2 then?

3 A. Yes.

4 Q. Okay. What happened when you got out to
5 the yard?

6 A. The LCs were on the bleachers. Me,
7 Chaparro, and Moscow went to the far end of the
8 yard. And that's when Moscow says, "I'm going to go
9 talk to Mike Dallas and see if we can get you guys
10 to go in the middle, so that the LCs don't jump
11 you." Because that's what they said, they feared
12 the LCs would jump me.

13 MR. SINDEL: Your Honor, I just don't know
14 what the relevancy is of all of this. This is
15 something -- I'd be glad to hear an explanation, but
16 there is just --

17 THE COURT: What's the relevancy?

18 MR. SINDEL: They're in prison.

19 MR. CASTELLANO: It's the background about
20 how he ended up joining the SNM Gang, Your Honor.

21 MR. SINDEL: I think the detail is so
22 much.

23 THE COURT: I don't think we need this
24 much detail, so I'll sustain the objection.

25 All right. Why don't we break for our

1 lunch, and we will see you in about an hour. All
2 rise.

3 (The jury left the courtroom.)

4 THE COURT: All right. See you in about
5 an hour.

6 (The Court stood in recess.)

7 THE COURT: I think we have all the
8 defendants here and lawyers for all the defendants,
9 looking around the room.

10 Ms. Torraco, do you have something to
11 raise with the Court?

12 MS. TORRACO: I do, Your Honor. I have a
13 personal matter and I was hoping I could leave a
14 little early today.

15 THE COURT: Do you want me to explain it
16 to the jury?

17 MS. TORRACO: No. Quite honestly, I don't
18 even think they can see me most of the time.

19 THE COURT: Any objection to that? Not
20 hearing any --

21 Mr. Blackburn, do you have something?

22 MR. BLACKBURN: Yes, Your Honor. Somehow
23 I got some type of malady, and I was going out of
24 the courtroom this morning and almost tripped and
25 fell on my way back the last time when I was trying

1 to get out. I was wondering if I could sit in the
2 back of the courtroom. The problem is, though, I'm
3 supposed to do one of the crosses this afternoon,
4 and I've been sticking around because I know that
5 Mr. Davidson is working on a brief, but I don't know
6 that I'm going to be able to do that. I'm
7 wondering -- I would that I have left earlier, but I
8 know because of what's going on --

9 THE COURT: You've got the cross --

10 MR. BLACKBURN: Yes, I was one of a couple
11 that was going to do it. But I didn't know what the
12 Court was going to do with the motions or anything
13 this afternoon.

14 THE COURT: We're not doing it. Doesn't
15 seem like anybody needed it. I'm just going to plow
16 ahead.

17 I guess y'all are preparing some response,
18 and I'm working on it right now. Are you doing --
19 are you working on the response, Mr. Davidson?

20 MR. DAVIDSON: Yes, Your Honor. I'm
21 almost done.

22 THE COURT: I guess I'm still fairly
23 comfortable that the statute applies. I realize the
24 Government wrote a strong brief and they've got a
25 case on their side. But I'm comfortable it applies.

1 If you want to know where maybe I need to probably
2 have you focus, it might be on that remedy side.

3 MR. SINDEL: Focus on what, Your Honor?

4 THE COURT: The remedy.

5 MR. DAVIDSON: Thank you, Your Honor.

6 MR. CASTLE: Your Honor?

7 THE COURT: You might want to spend a
8 little extra there.

9 MR. CASTLE: Your Honor, just one of the
10 things we'd like to put on the record. We've talked
11 to all the defense attorneys. We're willing to
12 stipulate to the existence of the enterprise and
13 so -- is that correct, everybody?

14 THE COURT: Okay.

15 MR. CASTLE: So that's where we stand on
16 that, Your Honor.

17 THE COURT: And the Government is still
18 not interested in any stipulation on enterprise?

19 MR. CASTELLANO: I don't think so, Your
20 Honor. To the extent we need to tell the story with
21 these witnesses, a lot of their stories intermingle
22 with the enterprise and their history, as well as
23 their knowledge of the players in the enterprise.
24 And then one of the points made by the defense is
25 that it's a dying organization, so we --

1 THE COURT: Well, I guess I'm wondering,
2 though, really, whether it's a phantom issue in this
3 case, whether we need so much evidence on it.

4 MR. CASTELLANO: That's the hard part with
5 the jury, because we can't poll the jury during
6 trial so we never know when we're there, at a
7 beyond-a-reasonable-doubt standard. That's the
8 tricky part about this, or any case where we have
9 stipulations or an attempt to reduce evidence. We
10 just can't poll the jury to decide when we've
11 reached that point.

12 THE COURT: Well, I may have to start
13 reducing it for you.

14 MR. CASTELLANO: Understood.

15 THE COURT: So -- all right. Well, we
16 can't force the Government to stipulate.

17 Ready to bring the jury in?

18 MS. TORRACO: One more thing from me.

19 MR. BLACKBURN: Can I --

20 THE COURT: Yeah, you can sit at the back.

21 MS. TORRACO: I just wanted to remind you
22 about our motion on excluding the Frankie Gallegos
23 testimony.

24 THE COURT: I'm not. I'm not going to
25 grant that.

1 MS. TORRACO: Okay.

2 THE COURT: I'll try to give you something
3 in writing down the road.

4 MS. TORRACO: That's okay.

5 THE COURT: I think we crossed the bridge,
6 and I'm going to allow it.

7 All right. All rise.

8 (The jury entered the courtroom.)

9 THE COURT: All right. Everyone be
10 seated. All right. Give us a moment here to get
11 Mr. Martinez back in the courtroom.

12 All right, Mr. Martinez, if you'll return
13 to the witness box. Mr. Martinez, I'll remind you
14 that you're still under oath.

15 All right, Mr. Martinez. Mr. Castellano.

16 MR. CASTELLANO: Thank you, Your Honor.

17 BY MR. CASTELLANO:

18 Q. Mr. Martinez, before break we talked about
19 a conflict in the yard. Did you ever fight that
20 person?

21 A. No. We went out there to the yard and,
22 like I said, we were both strapped up; he was, too.
23 And we were supposed to meet in the middle,
24 according to Moscow, and we were going to meet in
25 the middle of the yard, and that's when he pulled

1 out his shank and started acting --

2 MR. SINDEL: Your Honor, same objection.

3 THE COURT: Sustained.

4 BY MR. CASTELLANO:

5 Q. So the question is: Did that conflict and
6 that fight happen on that day?

7 A. It was supposed to, but he got locked up
8 for a shank.

9 Q. Okay. Was there any fallout from that
10 confrontation that you two were going to have
11 together?

12 A. Yes.

13 Q. And what was that?

14 A. Chaparro and Shawn-Shawn, I believe,
15 stabbed two LCs that night.

16 Q. What were the names again? You said
17 Shawn-Shawn?

18 A. Shawn-Shawn and Chaparro, Chaps.

19 Q. Were Shawn-Shawn and Chaps SNM Gang
20 members?

21 A. Yes.

22 Q. And so was that an attack on them against
23 two other rivalries?

24 MR. COOPER: Objection, leading.

25 THE COURT: Don't lead.

1 BY MR. CASTELLANO:

2 Q. Who were Shawn-Shawn and Chaps?

3 A. SNM.

4 Q. And who were the other two people that
5 they stabbed?

6 A. LCs. I can't remember their names, but it
7 was two LCs.

8 Q. What was the relationship between the SNM
9 and the Los Carnales at that time?

10 A. Well, they were at peace at the time.

11 Q. And if they were supposed to be at peace,
12 what did this attack do to that peace treaty?

13 A. It ruined it, because Chaparro was angry
14 about what happened in the yard with Mike Dallas. I
15 guess he didn't -- I didn't understand the politics
16 at the time, so it was just pretty much -- some
17 parts of the SNM didn't want a peace treaty, and
18 those are the ones that took action.

19 Q. So were there SNM members, then, who, like
20 you said, did not agree with there being peace with
21 the Los Carnales?

22 A. Yes.

23 Q. And was there an attempt to have that
24 peace treaty back in place?

25 A. Yes.

1 Q. What was supposed to happen for that to
2 happen?

3 A. They were supposed to take me out.

4 Q. So did you find yourself getting caught up
5 in the middle of this?

6 A. Yes.

7 Q. How did you find out you were supposed to
8 be taken out?

9 A. One day Moscow pulled me out to the yard
10 and told me.

11 MR. COOPER: Objection, hearsay.

12 THE COURT: Sustained.

13 BY MR. CASTELLANO:

14 Q. Did you learn that you were in harm's way
15 from that conversation with Moscow?

16 A. Yes.

17 Q. Was he in any way trying to help you?

18 A. Yes.

19 Q. Was he supposed to be helping you?

20 A. No.

21 Q. Why not?

22 A. Because he's the one ordered to do the hit
23 on me.

24 Q. And so in some way, then, did he warn you?

25 A. Yes.

1 Q. And from what you know of the SNM, was
2 that a violation of the rules?

3 A. Yes.

4 Q. Why?

5 A. Well, because once you're ordered to do a
6 hit, you got to do it or else you're going to get
7 hit.

8 Q. After this incident, did anyone else
9 recruit you into the gang?

10 A. Yes, Ramon Clark and Tacho Amador and
11 Bernie Atencio, Stranger.

12 Q. Did you say Tacho Amador?

13 A. Tacho Amador.

14 Q. Who was the third person?

15 A. Stranger, Bernie Atencio; and Razer, Ramon
16 Clark.

17 Q. Is there any particular reason there were
18 three people who moved your admission into the gang?

19 A. Yes. There had to be three or more to
20 vote you in.

21 Q. And then once you were voted in, was
22 anything expected of you?

23 A. Yes.

24 Q. What was expected of you?

25 A. I was supposed to hit Leroy Mascarenas,

1 the leader of -- one of the leaders of the LCs at
2 the time.

3 Q. When were you supposed to hit him?

4 A. Well, after -- I guess there was a visit,
5 they were -- somebody was supposed to have to --
6 they were waiting on a clavo. It was going to be
7 after the visit, after they got that visit, and that
8 night, around count time, I was supposed to do it.

9 Q. What's a clavo?

10 A. Drugs.

11 Q. And why wait until the clavo comes before
12 you're supposed to hit Mascareñas?

13 A. Well, because I guess somebody had -- were
14 invested in it, or something. I don't know. I
15 didn't have that information.

16 Q. What normally happens after an assault
17 like that? Do members get to continue running
18 around or get locked down?

19 A. We get locked down and they cancel visits
20 and stuff.

21 Q. Would that be a reason why people would
22 want to have drugs before they get locked down?

23 A. Yes.

24 Q. So tell us what happened. You were
25 supposed to -- when you say "take out," what were

1 you supposed to do to Leroy Mascarenas?

2 A. Stab him, kill him.

3 Q. Did you get a chance to do that?

4 A. No.

5 Q. Why not?

6 A. I got stabbed.

7 Q. What happened?

8 A. The LCs got me. Sick Vic and Rick Bonny.

9 One stabbed me, and the other one beat me with a
10 pipe.

11 Q. How many times did you get stabbed?

12 A. About nine times.

13 Q. Did anybody assist you when you were
14 stabbed and beaten with this pipe?

15 A. Yes, Boxer -- he threw a metal box, a
16 metal container that we kept our stuff in, and hit
17 one of them off, and that's when they panicked and
18 scattered.

19 Q. At that point did -- if you know, did
20 people know of your membership since it had just
21 happened?

22 A. Before then, no, it was that day that they
23 found out that I was SNM.

24 Q. You mentioned Sick Vic. Was he an LC gang
25 member?

1 A. Yes.

2 Q. What eventually happened to him?

3 A. He got killed about a year later. I think
4 it was in '96.

5 Q. By who?

6 A. By Chico and -- I don't remember the other
7 guy, but SNM.

8 Q. Okay. Now, you told us about getting
9 stabbed and hit with a pipe. Did you tell on the
10 guys who attacked?

11 A. No.

12 Q. Why not?

13 A. Because that was a thing -- you couldn't
14 tell on people, snitch.

15 Q. Okay. So were those the rules of the
16 prison, rules of the gang? Whose rules?

17 A. Rules of the gangs, rules of prison. You
18 just don't tell. That's an unforgiven sin. But SNM
19 had a rule that if you snitch, you get killed.
20 Simple as that.

21 Q. Who told you about the rules of the gang?

22 A. Mostly Razer at first, and then Conrad
23 Salazar I met later. At the time he wasn't SNM, but
24 he ran it down to me that -- a lot of things that
25 the old-timers believed in. Then when I met Angel

1 is when I learned a lot more.

2 Q. Who is Angel?

3 A. Angel Munoz. He was -- at the time he was
4 the main leader, I'd call him.

5 Q. When did you meet him?

6 A. In '96.

7 Q. And how did you meet him?

8 A. I went to Las Cruces prison, and he was
9 there on the line.

10 Q. Is that the Southern New Mexico
11 Correctional Facility?

12 A. Yes.

13 Q. And what did you eventually learn were the
14 rules of the gang?

15 A. Basically just that. I mean, there
16 wasn't, like, a set -- a piece of paper where you
17 read and sign. It was just -- they schooled me what
18 to do and what not to do. Things like that. The
19 dos and don'ts.

20 Q. What were the dos and don'ts?

21 A. Don't tell. Do what you're told.
22 Whenever a mission comes up and your name is called,
23 you've got to do it. Things like that. I was a
24 youngster at that time. I needed to earn my bones,
25 so that was one of the main things, that I still

1 needed to earn my bones.

2 Q. What does it mean, to earn your bones?

3 A. To put in work, to kill for the SNM.

4 Q. At some point were you doing anything for
5 Angel Munoz?

6 A. Yeah. When I got out to the streets, I
7 helped him out, sent his wife some drugs and stuff
8 to take to him. Things like that. Little stuff.

9 Q. When did you get out of prison from that
10 first stay?

11 A. In 1998.

12 Q. And once you got out of prison, how long
13 was it before you returned to prison?

14 A. About four months.

15 Q. What took you back to prison?

16 A. I killed a cop, off-duty officer really,
17 but murder.

18 Q. Before we get to that, let me ask you how
19 you earned your bones eventually.

20 A. It wasn't until 1998 when I stabbed Brett
21 Watson at Southern New Mexico Correctional Facility.

22 Q. Who was Brett Watson?

23 A. He was a member of the Supreme White
24 Power.

25 Q. Was that a white gang?

1 A. Yeah.

2 Q. Why did you assault him?

3 A. Because that same group I guess had been a
4 part of stabbing Chicken Little, which was SNM, in
5 Hobbs, shortly before that. I don't remember
6 exactly when. And then, so that guy had an SWP on
7 his neck, so he was a mark.

8 Q. How did word get to you from Hobbs to
9 where you were so that you would know you should
10 retaliate against Brett Watson?

11 A. I mean, it was just around. Everybody
12 heard about it by that time. I don't know exactly
13 how it got from one point to another. But by that
14 time, it was all over the place. Everyone knew.

15 Q. Did you start out with a plan to stab him,
16 or did you have something else in mind first?

17 A. I wanted to hit him right away, but me and
18 Chaparro talked about it, and pretty much we had a
19 plan to -- not to get everyone locked down or
20 sacrifice soldiers for that. So we made a plan to
21 use the white boys to help take him out.

22 Q. What were you going to do to Brett Watson?

23 A. We were going to strangle him at first,
24 because that's the way to do it, get it done, but
25 the cord broke.

1 Q. What kind of cord was it?

2 A. It was a stinger cord. I told him to make
3 a ligature, but the guy -- he came out that morning
4 with a cord, and it was already too late because we
5 were already going into the room.

6 Q. Did you try to strangle Brett Watson?

7 A. I didn't. The guy that did it, Spider, he
8 was a white boy. He tried to strangle him while I
9 held him down. But when the string broke or the
10 cord broke, he started screaming. So I pulled out
11 the shank I had and started stabbing him.

12 MR. LAHANN: Your Honor, I'm going to
13 object to the relevance of this. These details
14 really don't bring anything to the trial.

15 THE COURT: I think we've had enough of
16 this particular crime. So I'll sustain the
17 objection.

18 MR. CASTELLANO: Your Honor, I'll note my
19 objection for the record. It is how he gained
20 entrance into the gang.

21 THE COURT: I understand.

22 BY MR. CASTELLANO:

23 Q. Did Brett Watson survive?

24 A. Yes.

25 Q. Did Brett Watson cooperate against you?

1 A. No.

2 Q. Do you know why not?

3 A. What's that?

4 Q. Do you know why not?

5 A. He didn't want to rat, I guess.

6 Q. And as a result of having done that, did
7 you earn your bones with the gang?

8 A. Yes.

9 Q. I'm going to show you Government's Exhibit
10 689, which I think has been admitted already.

11 Mr. Martinez, what are we looking at here?

12 A. One is SNM with a zia, the New Mexico zia.
13 It has SNM on it. And the other one is the SJ16.

14 Q. I'm circling something on the side of the
15 photo. What does that mean, or what does it refer
16 to?

17 A. That's Barrio San Jose, East Side.

18 Q. And what does the 16 mean?

19 A. East Side.

20 Q. Looking at the tattoo on the left, what
21 kind of tattoo is that?

22 A. That's an SNM tattoo.

23 Q. Did you get that tattoo after you made
24 your bones with the gang?

25 A. I actually got it the night before I

1 stabbed Brett.

2 Q. The Exhibit 692. Eventually were you
3 arrested on charges on December 3 of 2015?

4 A. Yes.

5 Q. We'll come back to that in a little bit.
6 What was your relationship like with Angel
7 Munoz?

8 A. It was good. I got along with him.

9 Q. And what did you do for him, or what were
10 you willing to do for him?

11 A. Whatever needed to be done. Take someone
12 out or die for him, I was willing to do.

13 Q. At any point in time were you somebody
14 assigned to protect him?

15 A. Yes. Yes.

16 Q. Where did you protect him?

17 A. In '97, when we were at the South, I'd
18 make sure nobody came around him, things like that,
19 watch his back.

20 Q. Was he considered powerful?

21 A. Yes.

22 Q. Even with prison administration?

23 A. Yes.

24 Q. What leads you to believe that?

25 A. Well, one time while I was in a visit, I

1 got into an argument with the cops, and he came and
2 made sure that they weren't going to beat me up and
3 stuff, and they were scared and begging him not to
4 do anything until they called for backup, and they
5 told him, "We're going to let him back out. Don't
6 worry. He's got to cool out."

7 I seen it right there. Then another time
8 when the warden himself came to calm him down. When
9 he was mad about something, the warden came and pled
10 with him to calm down. He looked scared.

11 Q. Is that how much power Angel Munoz had at
12 the time?

13 A. Yes.

14 Q. How strong was SNM at that point?

15 A. Very strong.

16 Q. What year was that?

17 A. In the '90s, late '90s.

18 Q. Now, you mentioned getting out of prison
19 and doing things for Angel Munoz. I'm going to talk
20 to you about that now. When you got back to the
21 streets, what were you doing for him?

22 A. Sending him drugs. Going with his wife to
23 get drugs.

24 Q. And how was it that you were able to send
25 him drugs?

1 A. Well, I would just give it to his wife and
2 she would take it to him in the visit.

3 Q. And do you believe that she was successful
4 in getting drugs in to him in prison?

5 A. Yes.

6 Q. And were you doing that because you were
7 an SNM Gang member?

8 A. Yes. I gave my word to him when I got out
9 I would do that.

10 Q. So was that expected of you?

11 A. Yes.

12 Q. What types of drugs would you send in to
13 him?

14 A. Mostly heroin and weed.

15 Q. At other points in time had you been
16 responsible for getting drugs into prison
17 facilities?

18 A. Yes.

19 Q. What types of drugs would you get in?

20 A. Heroin.

21 Q. On the other occasions, were you in the
22 prison or outside the prison when you were bringing
23 drugs in?

24 A. Inside.

25 Q. And how were you able to get drugs into

1 the facility?

2 A. The girl I was with, mostly.

3 Q. What would you do with the drugs once you
4 got them?

5 A. Give them to other SNM members and sell
6 some, maybe. Do it together.

7 Q. Were you also using drugs at that time?

8 A. Yes.

9 Q. What types of drugs were you used?

10 A. Heroin, mostly. Marijuana. That's it.

11 Q. Did there come a point when you quit using
12 heroin?

13 A. Yes.

14 Q. Why was that?

15 A. I just stopped. After the murder of
16 Moscow, I just stopped doing everything, stopped
17 everything.

18 Q. And at some point were you sick with any
19 type of illness?

20 A. Yes, hepatitis C.

21 Q. How did you contract hepatitis C?

22 A. Needles, doing heroin.

23 Q. Was that in the prison facility?

24 A. Yeah, I got it in prison.

25 Q. Is it common to contract hepatitis C

1 through needles in prison?

2 A. Yes.

3 Q. At some point did you go through treatment
4 for hepatitis C?

5 A. Yes.

6 Q. When was that?

7 A. In around 2007, around then; 2008.

8 Q. And since that time, have you used needles
9 either for tattoos or for drugs in prison?

10 A. No.

11 Q. So when you were out on the streets doing
12 things for Angel Munoz, did you eventually start
13 working with a police officer?

14 A. Yes.

15 Q. And what were you doing with that police
16 officer that was illegal?

17 A. Sell drugs, guns, things like that.

18 Q. Was this a man or a woman?

19 A. Woman.

20 Q. And did you become physically involved
21 with this police officer?

22 A. Yes. We had sex.

23 Q. Well, would you describe the officer as a
24 corrupt police officer?

25 A. Yes.

1 Q. At some point in time did you have a
2 confrontation with this officer, or did you find
3 yourself on the West Mesa with her?

4 A. Yes.

5 Q. Okay. So what happened -- first of all,
6 you mentioned you were doing some illegal things?

7 A. Yes.

8 Q. Were you dealing drugs?

9 A. Yes.

10 Q. You mentioned firearms also. What were
11 you doing?

12 A. Sometimes trading them for drugs or
13 selling them.

14 Q. At some point did you find yourself in an
15 awkward position with this police officer on the
16 West Mesa?

17 A. Yes.

18 Q. What happened?

19 A. Basically, I felt I was being set up and I
20 killed her.

21 Q. How did that happen?

22 A. I took her gun and I tried to get her to
23 tell me what was going on. But I could tell she was
24 lying, and something else was going on. There were
25 other people somewhere, 100 yards away, and so I

1 thought I was being set up.

2 Q. And did you get convicted for that
3 offense?

4 A. Yes.

5 MR. CASTELLANO: Your Honor, at this time
6 I move the admission of Government's Exhibit 622.

7 THE COURT: Any objection? Not hearing or
8 seeing any, Government's Exhibit 622 will be
9 admitted into evidence.

10 (Government Exhibit 622 admitted.)

11 BY MR. CASTELLANO:

12 Q. Mr. Martinez, I'm going to draw your
13 attention to page 8985 of that exhibit. Actually,
14 let me move to page 8988 for starters.

15 Okay. On this document, it shows
16 first-degree murder?

17 A. Um-hum.

18 Q. Is this the conviction that resulted from
19 the shooting of that police officer?

20 A. Yes.

21 Q. And you stated for some reason that night
22 you thought you were being set up?

23 A. Yeah, set up with her people.

24 Q. When you say "her people," what does that
25 mean?

1 A. The connection she had that she introduced
2 me to, the Mexicans that she was dealing with at the
3 time. I thought they were going to kill me or
4 something.

5 Q. And so from this paperwork it looks like
6 you were convicted of that offense?

7 A. Yes.

8 Q. When you were in jail for this offense,
9 did that lead to the commission of any other
10 offenses?

11 A. Yes.

12 Q. Let me turn now to page 8995. I'm
13 circling on this document the words "murder in the
14 second degree."

15 A. Yes.

16 Q. I want to ask you how it is that you came
17 to be charged and convicted of that offense. Where
18 were you leading up this conviction?

19 A. In BCDC, county jail in Albuquerque.

20 Q. Do you remember what BCDC stood for?

21 A. Bernalillo County Detention Center.

22 Q. Is that the old jail that was located in
23 downtown Albuquerque?

24 A. Yes.

25 Q. Why were you in jail?

1 A. For that other crime, for first-degree
2 murder.

3 Q. And when you were there, were you
4 instructed to do anything?

5 A. Yes.

6 Q. Is it something you were instructed to do
7 on behalf of the gang?

8 A. Yes, SNM.

9 Q. What were you supposed to do?

10 A. Kill Matthew Cavalier.

11 Q. Is this the same Matthew Cavalier you told
12 us about previously?

13 A. Moscow, yes.

14 Q. And is he the one who warned you that he
15 was supposed to kill you?

16 A. Yes.

17 Q. How was it that you found yourself in a
18 position where you were supposed to kill him?

19 A. Well, because in '96 when they killed Sick
20 Vic, there was paperwork on him from that murder; he
21 had snitched on him. And so there was a green light
22 on him.

23 Q. What do you mean when you say there was
24 paperwork on him?

25 A. Paperwork from the discovery in that

1 murder, Victor's murder. He had told on the guys
2 that killed Sick Vic.

3 Q. And so when you referred to the discovery,
4 are those the reports that people get when they're
5 pending prosecution or a trial?

6 A. Yeah, police reports, police statements,
7 stuff like that.

8 Q. And so from 1996 forward, then, did you
9 say there was a green light on him?

10 A. On -- yeah, on Matthew.

11 Q. And when was it that you found yourself in
12 the same jail with him?

13 A. It was in around August of 2000, or
14 September. I think it was September.

15 Q. Is it your testimony there was a green
16 light on him for almost four years?

17 A. Yes.

18 Q. And what were you supposed to do?

19 A. Kill him.

20 Q. And did you make a decision to -- well,
21 were you ordered to do that?

22 A. Yes, we all -- four of us went into the
23 room and agreed upon that we were going to kill him,
24 that he couldn't leave alive.

25 Q. How were you going to kill him?

1 A. Strangle him.

2 Q. And why was it that you picked
3 strangulation as a means of killing him?

4 A. Because it was effective. And the ones
5 that had been strangled before in the same place,
6 BCDC, they hadn't got busted. So it was clean.

7 Q. At the time you did this, had there been
8 other strangulations for which people had not been
9 caught?

10 A. Yes.

11 Q. Which ones were those?

12 A. The ones that Felix, Animal, the ones that
13 murdered him; and RB, Ronnie Baca. Them two had
14 happened in the couple years before that.

15 Q. And who was responsible for those murders?
16 Or what gang, I should say.

17 A. SNM.

18 Q. Had you known people who had been stabbed
19 before and survived?

20 A. Yes. I was one of them.

21 Q. So you yourself were stabbed?

22 A. Yes.

23 Q. What was the difference between something
24 like strangulation versus stabbing somebody?

25 A. It was quieter and didn't bring that much

1 attention when it happened, and there was no way he
2 was going to live.

3 Q. How many people did it take to strangle
4 Mr. Cavalier.

5 A. Three of us.

6 Q. Could you have done it by yourself?

7 A. No.

8 Q. Why not?

9 A. Well, at that time I was strung out. I
10 wasn't that strong. And Moscow was pretty healthy
11 at the time. He had just came from the streets. He
12 was pretty healthy.

13 Q. Would you consider Moscow, or Matthew
14 Cavalier, a friend of yours?

15 A. Yes.

16 Q. Did it matter that he was your friend when
17 it came to following the order of the SNM?

18 A. No.

19 Q. And did you follow that order?

20 A. Yes.

21 Q. And as a result, did you and/or others
22 strangle him to death?

23 A. Yes.

24 Q. Where did you leave him after the murder?

25 A. Well, shortly after it happened, I thought

1 I heard a scream. I thought he was still alive. I
2 went up to check on him, and he was dead. So I kind
3 of tucked him into the bed to make it look like he
4 was asleep, and closed the door, turned off his
5 light, and closed the door and left him there.

6 Q. Do you know how long it was before anybody
7 discovered the body?

8 A. Yeah, almost 24 hours later.

9 MR. COOPER: Your Honor, may I approach?

10 THE COURT: You may.

11 (The following proceedings were held at
12 the bench.)

13 MR. COOPER: Judge, we just received a
14 text that Mr. Blackburn is in the restroom throwing
15 up, and he's supposed to be one of the ones to
16 cross-examine this witness, so I'd ask that we maybe
17 wait for him to get back or -- I don't know.

18 THE COURT: Well, do you want me to stall
19 a second and ask you on this stipulation -- where is
20 Mr. Castle? Enlighten me a little bit more on the
21 stipulation that the defendants are willing to
22 offer. Is it simply that the enterprise exists from
23 the one element, or is it that it exists and it was
24 engaged in racketeering activity? How far does the
25 stipulation that's being offered go?

1 MR. CASTLE: I will need to explore that
2 with the other attorneys, and then is there a
3 timeframe also that we should include in that.

4 THE COURT: I don't know. I was just
5 curious what the stipulation was, how far, and I
6 guess the thing that probably I need to do to act on
7 your stipulation in the way that I think you're
8 wanting me to act is, will the defendants agree that
9 in closing arguments and in their questioning -- you
10 know, how you can ask a question that applies or
11 attacks an element and then at closings are you
12 agreeing not to attack those two elements?

13 MR. CASTLE: I will address that. I think
14 also if the Court is going to accept the
15 stipulation, it's probably something that needs be
16 acquired on each defendant as a submitting element
17 of the offense.

18 THE COURT: I guess we could think about
19 it. I can't force the Government to stipulate to
20 that.

21 MR. CASTLE: Right.

22 THE COURT: So I'm not sure we're in a
23 situation where I need to ask the defendants.
24 Although if y'all are more comfortable with that,
25 I'll go along with it, and if that's what something

1 out there says.

2 MR. CASTLE: I don't know.

3 MR. CASTELLANO: I agree with Mr. Castle.
4 I know there is some Tenth Circuit precedent
5 requiring at least the approval by signature of a
6 defendant to stipulate the stipulations.

7 THE COURT: I agree. But if you're not
8 going to accept the stipulation, I've done a lot of
9 stipulations in cases off the reservation, but if
10 you're not going to accept the stipulation, I'm
11 wondering if we need to go through any sort of --
12 what I'm thinking, though, is if the defendants tell
13 me they're not going to contest in closings or
14 impliedly or otherwise and they're questioning those
15 two elements, then it might start encouraging me to
16 403 some of your evidence. We're two weeks in.
17 We've had a lot of evidence on this. So it's not
18 like you're hanging out there naked. It might begin
19 to sort of shorten down the trial, if those are
20 truly phantom issues. You've got less to worry
21 about, and you can kind of move on. That's what I'm
22 thinking. So y'all might think about it a little
23 bit.

24 MR. CASTLE: Will do.

25 THE COURT: Mr. Blackburn, how are you

1 doing? Is this your first trial? You're in the
2 restroom?

3 MR. BLACKBURN: I've been on my knees a
4 lot of times in my life, but...

5 THE COURT: I never played a football game
6 where I didn't feel about the same way. Or probably
7 at trial or an oral argument.

8 MR. BLACKBURN: This is easy.

9 THE COURT: If we got you a 7-Up or
10 something like that --

11 MR. BLACKBURN: I just spent the last 15
12 minutes in there. I texted these guys. They didn't
13 answer.

14 THE COURT: They knew you're out there.
15 That's the reason we're up here stalling for you.

16 MR. BLACKBURN: I know.

17 THE COURT: If we can get you a 7-Up or a
18 Sprite or something, go ahead and eat. Or sometimes
19 7-Up or Sprite helps me, with maybe some saltine
20 crackers or something.

21 MR. BLACKBURN: I don't know if there is
22 much left.

23 THE COURT: That's the reason we're adding
24 to it. Well, keep us posted. Text them and let us
25 know, or text Carol, Ms. Bevel.

1 MR. BLACKBURN: Do you want me to sit back
2 here and wait?

3 THE COURT: You're welcome to sit back
4 here.

5 MR. BLACKBURN: But I don't want the whole
6 proceedings to be delayed because of me.

7 THE COURT: Well, let's just see how it
8 goes. Sit back there and see how it goes, and we'll
9 stall and check on you, since you're going to do
10 some cross. Is that all right?

11 MR. BLACKBURN: Okay. I'll let you know.

12 (The following proceedings were held in
13 open court.)

14 THE COURT: All right, Mr. Castellano.

15 MR. CASTELLANO: Thank you, Your Honor.

16 BY MR. CASTELLANO:

17 Q. Mr. Martinez, I want to ask you about a
18 time when you started a fire in the prison. Do you
19 remember that?

20 A. Yes.

21 Q. Why did you start the fire?

22 A. Because they didn't give me my property,
23 the COs, the administration.

24 Q. Did that upset you?

25 A. Yes.

1 Q. And as a result of that fire, did you
2 suffer some ramifications by the corrections
3 officers?

4 A. Yes.

5 Q. What happened to you?

6 A. They beat me up.

7 Q. How badly did they beat you up?

8 A. Pretty bad. They cut my eye. Pretty bad.

9 Q. As a result of this beating, did you tell
10 other law enforcement officers about it?

11 A. No.

12 Q. Why not?

13 A. Because I didn't believe in telling on
14 even them at the time.

15 Q. Has anyone encouraged you to come forward
16 with the information?

17 A. Yes, the major at the time. I can't
18 remember his name, but he had took pictures and he
19 wanted me to make a statement because he had walked
20 up when they were beating me, and he kind of caught
21 the last of it, and they made up the story that I
22 tried to get them while I was going to the shower
23 and get out of my handcuffs and stuff.

24 Q. So at that point in time, did you feel so
25 strongly about snitching, as I'll call it, that you

1 didn't even tell on them?

2 A. Right.

3 Q. Do you remember in 2014 a homicide that
4 resulted in the death of Javier Molina?

5 A. Yes.

6 Q. What happened to the SNM Gang as a result
7 of that murder?

8 A. We were locked down.

9 Q. When you say "locked down," what happened
10 to you?

11 A. Well, they took our stuff, put us in a
12 cell with nothing, took our property, things like
13 that.

14 Q. And were you even in the same facility as
15 Javier Molina?

16 A. No.

17 Q. Did you think that was fair?

18 A. No.

19 Q. And as a result of getting locked down in
20 that way, were you upset with the administration?

21 A. Yes.

22 Q. What did you do as a result of being
23 upset?

24 A. Started filing grievances and ultimately a
25 lawsuit.

1 Q. Did you file that lawsuit on your own or
2 through an attorney?

3 A. On my own.

4 Q. At some point were you upset enough that
5 you agreed to do something illegal?

6 A. Yes.

7 Q. What was it?

8 A. Kill Marcantel, the one I was assuming --
9 I wanted him dead.

10 Q. Who was Marcantel?

11 A. He was Secretary of Corrections at the
12 time.

13 Q. Was it your belief that it was his
14 decision that you and others got locked down?

15 A. Yes, he made it clear that it was his
16 decision to do that, so yeah.

17 Q. Did he communicate that to you and the
18 others?

19 A. Yes. He came in the pod and told us that
20 he decided to lock us down and keep us on
21 restriction until we decide we're not going to kill
22 each other anymore.

23 Q. And did you also make a decision or
24 express your desire to kill someone named Dwayne
25 Santistevan?

1 A. Yes. That was actually a year, a couple
2 years before that. Or a year before that. A couple
3 years. Yeah.

4 Q. Who is Dwayne Santistevan?

5 A. The head of the STIU at the time, gang
6 unit.

7 Q. Is that the gang unit?

8 A. Yes.

9 Q. So what did you do to try to set the
10 wheels in motion for these two men to be killed?

11 A. Well, I had a meeting with Pup at the
12 time, and we talked about it, and we didn't really
13 plan on it until later on, but we had talked about
14 he needed to somehow pay. So we targeted his son,
15 because his son was a lieutenant at the Central at
16 the time, so we figured we'll get his son and teach
17 him a lesson.

18 Q. Whose son?

19 A. Santistevan.

20 Q. And who was Pup?

21 A. He was a leader at the time.

22 MR. BENJAMIN: Objection, Your Honor,
23 relevance. And I believe the Court ruled I could
24 ask for a limiting instruction as to the defendants
25 here.

1 THE COURT: Well, I think we've had enough
2 discussion. I don't necessarily agree with either
3 one of your objections on the grounds that you
4 proposed, but I think we've had enough testimony on
5 that, so I'll sustain the objection.

6 BY MR. CASTELLANO:

7 Q. Mr. Martinez, what's Pup's name?

8 A. Anthony Baca.

9 Q. Did you say you also considered him a
10 leader in the SNM?

11 A. Yes.

12 Q. Earlier I showed you a picture of an
13 arrest photo on you on December 3 of 2015. Do you
14 remember that?

15 A. Yes.

16 Q. Were you arrested for the conspiracies to
17 murder Mr. Marcantel and Mr. Santistevan?

18 A. Yes.

19 Q. Did you plead guilty to those offenses?

20 A. Yes.

21 MR. CASTELLANO: Your Honor, at this time
22 I move the admission of Government's Exhibits 625
23 and 626?

24 THE COURT: Any objection from the
25 defendants? Not hearing or seeing anything,

1 Government's Exhibits 625 and 626 will be admitted
2 into evidence.

3 (Government Exhibits 625 and 626
4 admitted.)

5 BY MR. CASTELLANO:

6 Q. Okay, Mr. Martinez. I'm going to begin by
7 showing you Government's Exhibit 625. What are we
8 looking at here?

9 A. My plea agreement.

10 Q. And did you plead guilty on September 15,
11 2016?

12 A. Yes.

13 Q. Turning to the second page of that
14 agreement, can you tell the members of the jury if
15 you pled guilty to Counts 9 and 10, which were
16 violent crimes in aid of racketeering for conspiracy
17 to murder each of those men?

18 A. Yes.

19 Q. And did you understand that the maximum
20 penalty for each of those charges was 10 years per
21 charge?

22 A. Yes.

23 Q. And is it your understanding that you're
24 facing a maximum term of up to 20 years in prison?

25 A. Yes.

1 Q. Turning to page 4 of that exhibit, there
2 is a portion that's redacted there. Do you see
3 that?

4 A. Yes.

5 Q. When you pled guilty, did you actually
6 have a factual basis where you told the Court what
7 you did?

8 A. Yes.

9 Q. And rather than having the jury just rely
10 on that document in your case, are you here to
11 testify to tell them about what you did?

12 A. Yes.

13 Q. Looking at page 6 of that document, you
14 understand that your agreement with the United
15 States was that you would waive your appellate
16 rights, so if the judge gives you a sentence and
17 it's reasonable, that's your sentence?

18 A. Yes.

19 Q. And you understand that your guilty plea
20 will basically stay unless your attorney gave you
21 ineffective assistance of counsel?

22 A. Yes.

23 Q. I'm going to show you the next exhibit,
24 which is Government's Exhibit 626. What is
25 Government's 626?

1 A. It's still my agreement. That's what I
2 agreed to.

3 Q. And what did you agree to do?

4 A. To testify, to tell the truth, and plead
5 guilty to my charges.

6 Q. And are there consequences for you if you
7 don't tell the truth?

8 A. I'll get punished for it.

9 Q. Let me turn to the next page of that
10 document. Is it your understanding that in
11 paragraph 6 of that document that your sentence
12 could be reduced if the Government files a motion on
13 your behalf?

14 A. Yes.

15 Q. Is that something you know is a 5K or a
16 5K1.1?

17 A. Yes.

18 Q. And what happens if the Government does
19 not file a motion on your behalf?

20 A. I don't get it.

21 Q. And even if we filed a motion on your
22 behalf, do you understand who ultimately has the
23 decision about your sentence?

24 A. Yes. The judge.

25 Q. Is it this judge here in court?

1 A. Yes.

2 Q. If you recall, about how quickly after you
3 were arrested in this case did you agree to
4 cooperate with the Government?

5 A. Right away, like about a week later.

6 Q. And why is it that you agreed to
7 cooperate?

8 A. Because I had a conversation with my
9 daughter, and she asked me when I was going to
10 change.

11 MR. COOPER: Objection, Your Honor.
12 Hearsay.

13 THE COURT: Sustained.

14 BY MR. CASTELLANO:

15 Q. Let me ask you this. Did your daughter
16 have an influence on your decision?

17 A. Yes.

18 Q. Is that from having a conversation with
19 her?

20 A. Yes.

21 Q. Then at that point did you decide you want
22 to get out of the gang life?

23 A. Yes.

24 MR. COOPER: Objection, leading.

25 THE COURT: Overruled.

1 BY MR. CASTELLANO:

2 Q. Go ahead, sir.

3 A. Yes, I wanted to get out of the gang and
4 the lifestyle.

5 Q. When you agreed to cooperate, can you tell
6 the members of the jury if the FBI signed you up as
7 what's known as a confidential human source?

8 A. Yes.

9 Q. And did you provide information to the
10 FBI?

11 A. Yes.

12 Q. And was most of that information related
13 to the SNM and your history in the SNM?

14 A. Yes.

15 Q. Did it include members' participation in
16 gang activities?

17 A. Right.

18 Q. When you were signed as a confidential
19 human source, did the FBI pay you money as a source?

20 A. Yes.

21 Q. And do you recall if the amount of money
22 you were overall paid was \$1,350?

23 A. Yes.

24 Q. At some point in time did the payments
25 stop?

1 A. Yes.

2 Q. And how was it -- or why is it that they
3 stopped?

4 A. Because I tampered with the tablets that
5 we had, that had the discovery.

6 Q. And can you explain that for the members
7 of the jury, what you mean by a tablet?

8 A. Got into Wi-Fi and pretty much broke the
9 tablet. Got into Wi-Fi, Facebook, things like that,
10 that we weren't supposed to.

11 Q. And when you say "the tablet," and it had
12 the discovery, did it have all of the reports on
13 this case on the tablets?

14 A. No, it wouldn't let you keep your files.
15 You had to delete everything. You had to reset the
16 thing so it deleted everything.

17 Q. Before you reset the tablet, did it have
18 the reports from this case?

19 A. Yes, it had everything, all the discovery
20 on this case.

21 Q. About how long ago was it that you
22 tampered with the tablet and lost the information?

23 A. About 2016, I think it was, when I
24 first -- yeah, 2016.

25 Q. So it was 2016 that you had access to the

1 tablet and all the reports that were on it since
2 that time?

3 A. No.

4 Q. And as a result of breaking the rules, is
5 that when you got cut off as a source?

6 A. Yes.

7 Q. Even though you were cut off as a source,
8 did you still have obligations pursuant to your plea
9 agreement?

10 A. Yes.

11 Q. Did that include cooperating and even
12 testifying?

13 A. Yes.

14 Q. You testified earlier that you used to be
15 a heroin user and that you quit using heroin; is
16 that correct?

17 A. Yes.

18 Q. Even after you agreed to testify in this
19 case, can you tell the members of the jury whether
20 you used controlled substance?

21 A. Yeah, I used Suboxone since then.

22 Q. And where did you use Suboxone?

23 A. In the federal holding where they had us,
24 in different federal holdings.

25 Q. About how many times would you say you

1 used Suboxone?

2 A. Maybe -- I don't know. Whenever it would
3 come, whenever it would be around. I can't really
4 say how much. It wasn't consistent, but when it
5 came around, maybe a whole month.

6 Q. So over the years, is it fair to say as
7 somebody who has been in prison for a long time,
8 that if drugs became available to you, that you
9 would use them?

10 A. Yes.

11 Q. And in this case because of your past with
12 recovering from hepatitis C, do you use anything but
13 Suboxone?

14 A. No.

15 Q. Did you understand that was a violation of
16 the rules, when you use controlled substances?

17 A. Yes.

18 Q. Sir, I want to ask you a little bit more
19 about your history in the gang. As a member of the
20 gang, in addition to the rules, did you learn who
21 the leaders were in the gang?

22 A. Yes.

23 Q. Has leadership changed over the years?

24 A. Yes.

25 Q. Can you explain that to the members of the

1 jury. How is it that leaders come up and leaders go
2 down?

3 A. Well, sometimes they get out. Some
4 leaders get out. Others just rise up from earning
5 their bones, doing -- you know, putting in work,
6 doing a lot of things, and have leadership skills.

7 Q. And has there been a point in your time in
8 the SNM that you were a leader?

9 A. Yes.

10 Q. Can you tell the members of the jury what
11 a tabla is?

12 A. It's a panel of leaders, like four or five
13 leaders or more, and sometimes -- it's just a table
14 of leaders, like a group. And between all of them,
15 they make decisions, and we would have a vote on
16 things, you know, stuff like that.

17 MR. DAVIDSON: Your Honor, may we approach
18 the bench?

19 THE COURT: You may.

20 (The following proceedings were held at
21 the bench.)

22 MR. DAVIDSON: Mr. Blackburn had to leave.
23 He's about to throw up. I think he's going to try
24 to leave for the day, go back to the hotel and lie
25 down. I just wanted to alert the Court to that.

1 THE COURT: How are the defendants lined
2 up to do cross today?

3 MS. HARBOUR-VALDEZ: He was going next.

4 THE COURT: Well, let's do this. How much
5 longer do you have on direct here, Mr. Castellano?

6 MR. CASTELLANO: Maybe 15 minutes.

7 MR. DAVIDSON: That will take us to a
8 break.

9 THE COURT: Is there a way that we can do
10 his cross on Monday?

11 MR. DAVIDSON: On Monday?

12 MR. CASTELLANO: I think so, Your Honor.

13 THE COURT: That way, he can review the
14 transcript over the weekend. Finish direct.

15 MR. DAVIDSON: That's what we'd like to
16 do.

17 THE COURT: Do you have some other
18 witness?

19 MR. CASTELLANO: I don't know if we have
20 anyone else. We were kind of expecting him to go
21 probably the duration.

22 THE COURT: Well, work on getting somebody
23 here.

24 MR. CASTELLANO: Okay.

25 MS. HARBOUR-VALDEZ: Let us know who it

1 is, because I think we're at the end of the list for
2 today.

3 THE COURT: Well, the defendants may have
4 to choose -- you may have to choose, have a witness
5 that you prepared for or cross-examining him. I
6 can't solve every problem.

7 MR. COOPER: I think -- when are we coming
8 up on a break, Your Honor?

9 THE COURT: Let's let Mr. Castellano go
10 for a while. I'd like to go until 4:00 before we
11 take a break. Well, we know what we're doing right
12 now, and you be thinking about it.

13 MR. DAVIDSON: Thank you.

14 (The following proceedings were held in
15 open court.)

16 THE COURT: All right, Mr. Castellano.

17 MR. CASTELLANO: Thank you, Your Honor.

18 BY MR. CASTELLANO:

19 Q. I was asking you about the tabla and
20 leadership within the gang, and I think you said at
21 one point you were also a member of the tabla. How
22 is it that you got to become a member of the tabla?

23 A. We were voted in. I was voted in in
24 around 2012, around there. 2015, in Cruces.

25 Q. And I think generally society would frown

1 upon murders. In the SNM, was that a problem?

2 A. No.

3 Q. So you had two murders under your belt.

4 Is that something that sometimes would be --

5 A. Respected.

6 Q. -- respected? So someone with your
7 history, then, is somebody who might be voted onto
8 the tabla?

9 A. Yes.

10 Q. And were you aware of a division at times
11 within the S resulting from an affair by Julian
12 Romero with Gerald Archuleta's wife?

13 A. Yes.

14 Q. And if you fell on one side or the other,
15 what side would you have fallen on if you had to
16 choose sides?

17 A. That's hard to answer, because I wouldn't
18 have. I just never thought of that, so I can't
19 answer that.

20 Q. Each person may have his feelings about
21 that situation. How did you feel about it, in terms
22 of whether you even had to pick sides?

23 A. I felt it was personal and shouldn't have
24 been a part of anybody's decision.

25 Q. So for you personally, then, did that

1 create any kind of division?

2 A. Yeah, personally, I just tried to stay
3 away from it and stay out of it and not get involved
4 in it.

5 Q. And even though there was sometimes
6 division in the gang, did it remain one gang?

7 A. Yes.

8 Q. Do you know -- through your years of
9 membership in the SNM, did you know somebody named
10 Billy Garcia?

11 A. Yes.

12 Q. And who was Billy Garcia?

13 A. He's an old one. I met him -- I just knew
14 him as an old-timer. He was all right when I met
15 him.

16 Q. Did you know him by any other names?

17 A. Wild Bill.

18 Q. Did you know him to have any power within
19 the gang?

20 A. Yes. He was influential.

21 Q. Did you ever have discussions with him
22 about what should happen to rats or cleaning house
23 within the gang?

24 MR. COOPER: Objection, Your Honor. May
25 we approach?

1 THE COURT: You may.

2 (The following proceedings were held at
3 the bench.)

4 MR. COOPER: Judge, I don't believe that
5 we've had any indication whatsoever that this
6 individual has made any statements with regard to
7 Billy Garcia. We had a number of motion hearings
8 with regard to the James statements and other issues
9 as to how these statements may come in, and there
10 was never any indication that this individual was
11 going to make any statements against Billy Garcia,
12 so I would object to this line of questioning.

13 MR. CASTELLANO: It was not a James
14 statement. It's a statement against interests by
15 Mr. Garcia to Mr. Martinez, I think about 1998, if
16 I'm not mistaken, 1998 or '99. The gist of the
17 statement is that we talked about rats and Billy
18 Garcia wanting to clean house and get rid of the
19 rats within the gang.

20 THE COURT: Well, it's just a statement by
21 a party opponent. I'm sure there are lots of those
22 in here that we haven't -- was this disclosed in any
23 sort of 302?

24 MR. CASTELLANO: I'd have to go back and
25 look. I don't remember specifically if that

1 statement is in there.

2 MR. COOPER: And I have looked -- I was
3 not prepared to do any cross-examination of this
4 individual, because he's never said a single
5 solitary word about Billy Garcia in any of the 302s.
6 So I think this really takes us by surprise. He's
7 never mentioned it to anybody.

8 THE COURT: How did you know to even ask
9 him on this?

10 MR. CASTELLANO: Through interviewing him
11 previously.

12 THE COURT: But when was there a 302
13 generated?

14 MR. CASTELLANO: I don't know if there's
15 been a 302 generated from that. It's a pretrial
16 interview.

17 MR. SINDEL: We've gotten a lot of 302s
18 that have been generated by pretrial interview.
19 We've been getting them sometimes, as you know, on
20 the date an individual is questioned, but --

21 THE COURT: Was this a recent interview?

22 MR. CASTELLANO: No, it's been --

23 THE COURT: A long time ago?

24 MR. CASTELLANO: It's been a while.

25 MR. COOPER: There is no reason, then, not

1 to have provided a 302, if it was a long time ago.
2 They were able to provide a 302 yesterday at 4:38
3 for an interview.

4 THE COURT: I don't know what to do. I
5 mean, there's no -- if they didn't produce a 302,
6 there is not a 302 out there. But you know,
7 statements by party opponents are admissible and --

8 MR. SINDEL: But they need to be
9 disclosed, Your Honor, under Rule 16.

10 THE COURT: Right. That is required.

11 MR. SINDEL: I think Rule 16 -- if you're
12 going to try to introduce a statement that's been
13 made by a defendant.

14 THE COURT: But if there is no --

15 MR. SINDEL: It may not be a statement to
16 law enforcement, but I think it's the --

17 THE COURT: I'd be glad to look at any law
18 on that, but it looks like there's not any written
19 statement or Jencks material or anything like that.

20 MR. COOPER: But under Jencks, they're
21 supposed to provide every statement, whether it's
22 written or oral, and they have not done that.

23 THE COURT: I'm not sure I've ever had a
24 nonwritten statement. Is that accurate?

25 MR. CASTELLANO: Well, I don't know if --

1 this isn't his statement. He's talking about Billy
2 Garcia's statement. The statement isn't Mr.
3 Martinez'. It's Mr. Garcia's statement.

4 MR. SINDEL: He's the one who stated it.
5 How can it not be a statement? "This is my
6 statement, Billy Garcia said this." It is a
7 statement.

8 THE COURT: Was your thinking that it
9 comes under Jencks?

10 MR. BECK: I think it does. I'd have to
11 look at it. But I think whether it's oral or
12 written, I think it's a burden on whoever is
13 presenting the witness to provide all the statements
14 known. So I think Mr. Cooper may be correct that it
15 should have been provided, if it was in the
16 Government's possession. So I actually am inclined
17 to agree that it should have been provided. I don't
18 know whether it was. I didn't know the statement,
19 but I agree with Mr. Cooper that I think there is a
20 Jencks obligation on the Government to provide it if
21 we have it.

22 MR. CASTELLANO: What I'll do is go back
23 and look at the reports and see if I have it. If I
24 do, I'll ask it on redirect, and I'll just put it on
25 hold for now.

1 THE COURT: Okay.

2 MR. SINDEL: Do you have an indication of
3 any statements that Mr. Gallegos -- that he's going
4 to testify to because we haven't seen those.

5 MR. CASTELLANO: He knows him to be an SNM
6 Gang member.

7 THE COURT: Does that work for everybody?
8 We'll kick it over to redirect if something shows
9 up.

10 MR. COOPER: Sounds good.

11 THE COURT: While I've got everyone up
12 here, I think Ms. Harbour-Valdez worked with -- I'm
13 not sure who on the Government side. Ms. Armijo --

14 MS. ARMIJO: Yes.

15 THE COURT: -- came up with the document
16 that was given to the jury. This is the preliminary
17 instruction that was changed and modified, and we
18 never got anything on the record. Is that
19 everybody's thought we had an agreement to give
20 them?

21 MR. CASTELLANO: I know I looked at a
22 draft and approved it and Ms. Harbour-Valdez showed
23 me. If it's the same one, we have agreed to it.

24 THE COURT: All the defendants in
25 agreement? I'm going to have Ms. Bevel file this,

1 and I'll have a text entry since we didn't have a
2 label here, so I'll have a text entry that it was
3 given to the jurors, preliminary instruction as
4 modified by the parties, and given to the jury to
5 help them to identify the lawyers and the parties in
6 the case.

7 MR. BENJAMIN: Your Honor, since we're
8 here and because it's a new statement that I'm not
9 aware of, I guess is it going to be a statement that
10 Joe said he's a member of the S, or is there
11 something there is a foundation for?

12 MR. CASTELLANO: He'll state who he knows
13 and doesn't know to be S from his membership in
14 there.

15 MR. BENJAMIN: I guess, Your Honor, it
16 sounds like he's reading a list of people, and I
17 don't know that there is a foundation for that. I
18 mean, he's never served time with Joe Gallegos. I
19 have a folder that has eight Joe Gallegoses in
20 Belen, New Mexico.

21 THE COURT: Lay some foundation for Joe
22 Gallegos before you ask it. But if he says that he
23 knows him and before you ask him whether he's a
24 member of the SNM Gang, ask him if he knows whether
25 he is a member or not. The foundation.

1 MR. BENJAMIN: Your Honor, I don't want to
2 be nitpicky, but right up until trial they
3 maintained an individual in a recorded phone call
4 and the first time after my client tells me that my
5 New Mexico ID and it was not. That was Joe Ramon
6 Gallegos. So the issue comes up if you're throwing
7 around Joe Gallegos, I insist he is asked more than
8 I know a Joe Gallegos. I think there's six in
9 Belen, New Mexico.

10 THE COURT: Well, I don't know what more
11 foundation I can require the Government to lay to
12 ask if Joe Gallegos is a member of SNM.

13 MR. BENJAMIN: Your Honor, I think -- go
14 ahead.

15 MR. SINDEL: He doesn't say how he knows
16 that.

17 MR. BENJAMIN: And he knows and I'm
18 pointing, Your Honor, but he knows that individual.

19 THE COURT: I don't know if he needs to
20 know. I don't know the answer to this question.
21 I'm not sure he needs to know, identify Joe Gallegos
22 to be able to say that he knows a Joe Gallegos is a
23 member of the SNM Gang.

24 MR. BENJAMIN: But Your Honor, what
25 concerns me, the Court is okay simply I know a Joe

1 Gallegos as opposed to it being my Joe Gallegos.

2 THE COURT: Well, and that may be subject
3 to cross-examination, but it is some evidence that
4 Joe Gallegos is a member of the gang, if this man
5 says Joe Gallegos is a member of the gang but he
6 can't identify him.

7 MR. BENJAMIN: Your Honor, I guess I'll
8 raise this at this time. I wasn't planning on
9 cross-examining on this, but this individual made a
10 statement that Joe Gallegos ordered a hit and it was
11 recorded on a wire, and that was later retracted. I
12 think the Court is familiar.

13 MR. CASTELLANO: I'm going to ask him
14 about that he saw the report and identified it as a
15 mistake and actually pointed it out to law
16 enforcement. So I agree he will say that.

17 MR. BENJAMIN: I think prior to me
18 bringing it up, I think that bolsters testimony if
19 they intend to bring it up to bolster the
20 credibility of the informant.

21 THE COURT: They're attacking the
22 credibility of the opponent, they got it wrong.

23 MR. BENJAMIN: I believe it's bolstering
24 based on the way the report is written.

25 MR. CASTELLANO: I think he's looking at

1 the discovery, saw the report, and identified him as
2 the person that gave the information to law
3 enforcement and he corrected that as part of his
4 cooperation, pointed out that that was an inaccuracy
5 in the report.

6 THE COURT: I think you can probably get
7 into the inaccuracy, the reporting was wrong on
8 that, but you may not be able to.

9 MR. CASTELLANO: I think the agent may
10 have been wrong on it, and he pointed that out.

11 MR. BENJAMIN: And Your Honor, as I said,
12 if it comes in through Mr. Martinez, it's bolstering
13 because -- I pointed that out for approximately a
14 year in court prior to them taking any action, so I
15 don't --

16 THE COURT: I think they can impeach by
17 him getting it wrong, but they have to stop there.
18 They can't go back in and say he later figured out
19 it was correct. I think that may be the bolstering
20 part. So they can impeach him if they want; if they
21 want to leave it to you where he may have to stop
22 with impeachment and not bolster, if you want to
23 explain the story. All right.

24 MR. ROBERTS: Judge, one last thing. I
25 want to make a running objection as to anything

1 regarding Frankie Gallegos for the record.

2 THE COURT: Well, I overruled those
3 objections.

4 MR. ROBERTS: I understand. I want to
5 keep our running objections.

6 THE COURT: I'll try to get you something
7 in writing on that, but I do think that we crossed
8 the line to where that is relevant. Under the 403
9 analysis it's more relevant and fairly prejudicial.

10 MR. CASTELLANO: I may have misspoken. I
11 think this witness will say he does not know Joe
12 Gallegos, but he will go down the list of each of
13 the defendants to say who he knows and who he
14 doesn't know.

15 THE COURT: Okay. Let's take them one at
16 a time, then.

17 (The following proceedings were held in
18 open court.)

19 THE COURT: All right, Mr. Castellano.

20 MR. CASTELLANO: Thank you, Your Honor.

21 BY MR. CASTELLANO:

22 Q. Mr. Martinez, I was asking you about Billy
23 Garcia a second ago. And did you know him through
24 your membership throughout the years?

25 A. Yes.

1 Q. And did you know somebody else named Leroy
2 Lucero, who was also known as Smurf?

3 A. Yes.

4 Q. So between those people in the gang, who
5 had more pull between those two?

6 A. Billy, Wild Bill.

7 Q. I want to ask you about some of the
8 defendants here in trial through your membership in
9 the SNM, and I want to ask you if you know them.
10 First of all, do you know Joe Gallegos?

11 A. No.

12 Q. And to be fair, do you know every single
13 member of the SNM or all people who have been
14 members of the SNM?

15 A. No.

16 Q. And have you been to facilities where
17 you've heard someone's name before and they were in
18 a different facility, and you didn't know them at
19 all?

20 A. Yeah, there's been times where I just meet
21 them by chance at a certain facility and I've never
22 seen them before in my life.

23 Q. So you don't know Joe Gallegos?

24 A. No.

25 Q. Do you know Andrew Gallegos?

1 A. No.

2 Q. Do you know Arturo Garcia?

3 A. Yes.

4 Q. How do you know him?

5 A. From the Main, from the North. I did time
6 with him a few places.

7 Q. And has he ever held a leadership position
8 in the SNM?

9 A. Yes.

10 Q. Can you tell the members of the jury
11 whether he was ever on the tabla with you?

12 A. No, not with me, but he was a leader
13 whenever he was at.

14 Q. Do you know Christopher Chavez?

15 A. Yes.

16 Q. And how do you know him?

17 A. I just did time with him in 2003. I think
18 that's when I first met him. I don't really know
19 him too good. I just met him there.

20 Q. When you met him over there, did you know
21 him to be an SNM Gang member?

22 A. Yes.

23 Q. What about Edward Troup?

24 A. Yeah, I know him.

25 Q. How do you know him?

1 A. Met him when I came to prison in the early
2 '90s.

3 Q. And did you know him to be an SNM Gang
4 member?

5 A. Yes.

6 Q. Do you know Allen Patterson?

7 A. No.

8 Q. Did you ever know anybody named Frederico
9 Munoz?

10 A. Yes.

11 Q. Did you know him by any other names?

12 A. Playboy.

13 Q. At any point in time did he have a
14 leadership role in the SNM?

15 A. Yes.

16 Q. When was the last time you used drugs?

17 A. In December last year.

18 Q. What did you use on that occasion?

19 A. Suboxone.

20 MR. CASTELLANO: May I have a moment, Your
21 Honor?

22 THE COURT: You may.

23 MR. CASTELLANO: I pass the witness, Your
24 Honor.

25 THE COURT: Let's take a break. We're a

1 little early, but let me talk with the lawyers a
2 bit. So we'll be in recess for about 15 minutes.

3 (The jury left the courtroom.)

4 THE COURT: All right. Everyone be
5 seated. Does the Government have any witnesses it
6 can get here?

7 MS. ARMIJO: Your Honor, I believe that we
8 have requested one inmate to be here, but I think
9 that was about five or ten minutes ago. I would
10 expect it would probably at least another 20 to 30
11 minute.

12 THE COURT: All right. And which witness
13 is that?

14 MS. ARMIJO: Joe Otero.

15 THE COURT: And how long will your direct
16 of Mr. Otero take?

17 MR. BECK: Thirty, forty-five minutes.

18 THE COURT: Okay. If the Government gets
19 done with him, is that -- are y'all ready to cross
20 him?

21 MR. SHATTUCK: No, sir.

22 MR. COOPER: Judge, we're not ready to
23 cross Mr. Otero. We, until just now, did not
24 contemplate him ever hitting the stand today. He
25 wasn't on the list of individuals that would be

1 brought in.

2 THE COURT: Why don't y'all do this. You
3 choose during the break whether you want to
4 cross-examination Mr. Martinez now or you want to
5 see what happens with Mr. Otero and see if -- you
6 know, it may be that we're just going to run out of
7 time by getting him here and do direct. But I'll
8 give you the choice, and talk about it during the
9 break.

10 MR. COOPER: We will. Thank you, Judge.

11 THE COURT: All right. We'll be in recess
12 about 15 minutes.

13 (The Court stood in recess.)

14 THE COURT: We have all the defendants
15 back in, an attorney for each defendant.

16 How do you propose to proceed?

17 MR. BECK: It looks to me like Mr. Cooper
18 is getting ready to cross-examine, which I think is
19 probably the only option, because as the Court has
20 heard many times, there is a formal count at 4:00
21 p.m. So I think he's being delayed.

22 The second think that I'll say is, I know
23 that the Court has sustained some objections lately
24 in relation to evidence, and I know there is a
25 stipulation that may be possible to maybe put in

1 place. The only problem with the way that we're now
2 proceeding is that it sort of hamstring the
3 Government because we have to get into this
4 impeachment stuff on direct, or else we look like
5 we're hiding something. But when we're getting into
6 it and we keep getting objected to and sustained, it
7 puts the Government in a tough situation. I realize
8 we're in a holding pattern right now with the
9 stipulation, and that's on the Court's mind, it's on
10 the defendants' mind, and the Government's mind.
11 But I'm worried that it's creating a false
12 impression with the jury that we're trying to get in
13 evidence that's inadmissible for some reason, or
14 that if we decide to forego that evidence at this
15 point without a stipulation in place, then the
16 defense will get into those gory details like they
17 have been doing with the cooperators and it looks
18 like we're hiding something from the jury.

19 And then the third thing is: Reading over
20 the trial brief, I think we're probably largely --
21 seems to me that we're largely in agreement that
22 perhaps an adjournment -- I think on page 10 it says
23 "Perhaps three or four days to allow the defendant
24 to meet the witnesses' testimony would eliminate the
25 prejudice caused." There is a block citation from

1 the Fourth Circuit's case in Fulks. There is a
2 block quotation on page 10 of the defendant's brief
3 where it says -- it says that -- discussing an
4 adjournment versus any kind of other relief,
5 including exclusion, it says, "In so ruling, we
6 emphasize that the focus of the prejudice inquiry is
7 not the extent to which the after-discovered
8 witness' testimony would be damaging to the
9 defendant's case; rather, the prejudice must result
10 from the lack of notice that the witness would
11 testify," which the United States agrees with.

12 I think yesterday, based on the Court's
13 ruling, it was the prejudice of the testimony that
14 the Court was focusing on. The lack of notice -- I
15 think our brief makes clear that there has been
16 notice all along. This is not an after-discovered
17 witness. It's the prejudice of his testimony that's
18 really the issue here.

19 And so I think the United States agrees
20 with this brief, that if there is -- I mean, if it
21 really is prejudice and they can articulate the
22 prejudice, then an adjournment may be appropriate.
23 And that happens in cases after jeopardy has
24 attached, if there is.

25 Again, we disagree this is an

1 after-discovered witness in the first place, but I
2 think that the defendants are right that an
3 adjournment is a remedy in extreme cases where there
4 is extreme prejudice. And so that's on page 10 of
5 their brief.

6 THE COURT: All right. Did the defendants
7 make a decision to go ahead and cross-examine
8 Mr. Martinez? Is that what y'all are planning to
9 do?

10 MS. HARBOUR-VALDEZ: I think Mr. Blackburn
11 still wanted to wait until he had a chance to review
12 the transcript. So if Mr. Martinez could be brought
13 back on Monday for Mr. Blackburn's cross. I don't
14 have any cross on behalf of Mr. Troup.

15 MR. COOPER: Judge, I'm somewhat prepared
16 to cross-examine Mr. Martinez, so I think I will go
17 forward.

18 THE COURT: All right. Well, let's
19 proceed that way for the present time, and we'll --
20 do you still have this witness moving this
21 direction?

22 MS. ARMIJO: Yes, Your Honor. They are en
23 route.

24 THE COURT: All right. So let's go ahead
25 and line the jury up.

1 Mr. Davidson, did you just file a brief?
2 Is that what Mr. Beck is talking about?

3 MR. DAVIDSON: I did, Your Honor. I'm not
4 sure I agreed with the characterization of what I'm
5 talking about.

6 THE COURT: I have two copies of
7 Mr. Beck's, but I don't have one of yours. I assume
8 that's what he was talking about.

9 (The jury entered the courtroom.)

10 THE COURT: All right, Mr. Martinez, I'll
11 remind that you're still under oath.

12 Mr. Cooper, do you have cross-examination
13 from Mr. Billy Garcia?

14 MR. COOPER: I do, Your Honor. Thank you.

15 THE COURT: Mr. Cooper.

16 CROSS-EXAMINATION

17 BY MR. COOPER:

18 Q. Good afternoon, Mr. Martinez.

19 A. Good afternoon.

20 Q. My name is Bob Cooper. I represent Billy
21 Garcia, and I want to ask you a few questions this
22 afternoon, if I may.

23 A. Okay.

24 Q. Mr. Martinez, you were indicted in the
25 VICAR case, weren't you?

1 A. Yes, sir.

2 Q. And you were charged with the murder of
3 Javier Molina?

4 A. No.

5 Q. No. You were charged with the conspiracy
6 to commit murder with regard to Dwayne Santistevan?

7 A. Yes.

8 Q. And you were also charged with the
9 conspiracy to commit the murder of Gregg Marcantel?

10 A. Yes.

11 Q. Correct? So Gregg Marcantel was the
12 Secretary of the Department of Corrections at the
13 time?

14 A. Yes.

15 Q. And Dwayne Santistevan -- Mr. Santistevan
16 was the chief administrator of the STIU; correct?

17 A. Yes.

18 Q. So the STIU -- that's the gang unit or the
19 group that's in charge in the prison of validating
20 particular gangs and validating gang members;
21 correct?

22 A. Yes.

23 Q. Now, when you were indicted, you were
24 named one of the leaders of the SNM Gang; correct?

25 A. Yes.

1 Q. And among those leaders was Gerald
2 Archuleta, Styx; correct?

3 A. Yes.

4 Q. You have to speak up and say yes because
5 we're taking this down and so --

6 A. Yes.

7 Q. I saw you, I knew what you were saying.
8 But -- one of the other leaders was a guy named
9 Mario Rodriguez, also known as Blue; correct?

10 A. Yes.

11 Q. Robert, Baby Rob, Martinez was also one of
12 the leaders named in that indictment?

13 A. Yes.

14 Q. And Pup, Anthony Ray Baca, also known as
15 Pup, was one of the leaders; correct?

16 A. Yes.

17 Q. Now, in that indictment, Billy Garcia was
18 not named as one of the leaders, was he?

19 A. No.

20 Q. And neither was Julian Romero?

21 A. No.

22 Q. Do you know Julian?

23 A. Yes.

24 Q. And you know that there was a green light
25 put on Julian when he started going out with Styx's

1 wife; correct?

2 A. Yes.

3 Q. And that happened in about 2000?

4 A. I'm not sure when it happened.

5 Q. But it's been out there for a long, long
6 time; right?

7 A. Yes.

8 Q. And in the intervening period of time,
9 Julian has been hit twice: One time in 2003, when
10 Frederico Munoz and Shamon Pacheco went to Julian's
11 house, they drove up, Julian was getting out of his
12 car with his wife, and they said, "Hey, carnal, come
13 here."

14 And he started walking that way, pow, and
15 they started shooting him; right?

16 A. I guess. I wasn't there.

17 Q. But you've heard about that, haven't you?

18 A. I heard about it.

19 Q. And that was a hit that was the green
20 light that was set by Gerald Archuleta; correct?

21 A. Yes.

22 Q. Those two guys that were there that day --
23 they were there to kill Julian, weren't they?

24 A. Yes.

25 Q. And Julian was an old-timer also, no?

1 A. Yeah.

2 Q. So Billy and Julian are a couple of the
3 old guys, old-timers?

4 A. Yes.

5 Q. You're not one of the old-timers, are you?
6 You're more of a youngster, relative to them?

7 A. Yes.

8 Q. All you have to do is look; right?

9 So I want to go to the period of time when
10 you and Baby Rob and Pup and probably Eric Duran at
11 that time decided that Marcantel and Santistevan
12 ought to be hit.

13 A. Yes.

14 Q. It was the four of you that made that
15 decision?

16 A. Yes.

17 Q. Anybody else?

18 A. No.

19 Q. No? Just you four. And not Eric so much,
20 probably, but at least you, Baby Rob, and Pup were
21 big dogs in the organization, weren't you?

22 A. Yes.

23 Q. At that time, there probably wasn't
24 anybody bigger in the organization than you, was
25 there? Maybe Styx?

1 A. He was on the streets.

2 Q. He was on the streets. But he still had a
3 lot of power even though he was on the streets,
4 doesn't he?

5 A. No.

6 Q. Not really. Okay. So he was no Angel
7 Munoz?

8 A. No.

9 Q. Angel had power on the streets, didn't he?

10 A. Yes.

11 Q. So -- and you know a little bit about the
12 history of SNM. You talked to us all about that
13 earlier today. You talked about who was in charge,
14 who the leaders were. And the original leader was a
15 guy named Juan Baca; right?

16 A. Right.

17 Q. And then when Juan -- how did Juan leave
18 the organization? How did Juan leave the S?

19 A. Well, he got out and --

20 Q. Went Christian; right?

21 A. Christian, had his own ministry and things
22 like that, yeah.

23 Q. And that's okay, isn't it?

24 A. Yes.

25 Q. That's one of the ways to leave the S.

1 A. Right.

2 Q. And he did. And when he left, Angel Munoz
3 assumed the power, assumed the position that Juan
4 Baca had occupied; correct?

5 A. Yes.

6 Q. And then when Angel died -- or before he
7 died, he turned it over to Styx; right?

8 A. Right.

9 Q. Then Styx gets out of prison, and in his
10 absence -- actually, let me back up. Before Angel
11 died, there was never a tabla, was there?

12 A. Right.

13 Q. Back in the day, it was Juan by himself.

14 A. Yes.

15 Q. Jefe. He's the main dude. And then after
16 he left, went Christian, then it was --

17 A. Angel.

18 Q. -- just Angel, and there was no need for a
19 tabla; right?

20 A. There wasn't technically a tabla, but
21 there was Angel, and then in other prisons, if there
22 was someone older in other prisons and those ones
23 were in -- probably equal to Angel or a little less
24 than Angel, they would take charge.

25 Q. There wasn't really anyone equal to Angel,

1 though, was there?

2 A. No, there wasn't; maybe not. But in other
3 prisons there were other people in charge, calling
4 shots.

5 Q. There would other people that would be the
6 llaveros, the --

7 A. Yes.

8 Q. -- holders of the keys, whatever you want
9 to call them?

10 A. Yes.

11 Q. In fact, Angel was so powerful, he could
12 even call hits from the streets, couldn't he?

13 A. Yes.

14 Q. And I guess Juan probably could have done
15 that, too?

16 A. Probably.

17 Q. You weren't around, back in those days.

18 A. No, but I heard of them, and I was around
19 when he was still alive. I met him once, and he
20 probably could have.

21 Q. Now, where are you from? Are you San Jo?

22 A. Yeah, Albuquerque.

23 Q. You guys didn't get along with the Barelás
24 gang, did you?

25 A. Not back in the day, no.

1 Q. And you were San Jo?

2 A. Yes.

3 Q. And San Jose area -- that's -- to explain
4 to the ladies and gentlemen of the jury, that's like
5 the area, like, Broadway, from maybe Central to
6 Gibson and over to Second Street and up to -- how
7 far?

8 A. It's pretty -- it's all the way along
9 Broadway, pretty much half of it. It's pretty big.

10 Q. And then you go from Broadway three or
11 four blocks either way?

12 A. Right. From Stadium to maybe before you
13 hit Gibson or right when you hit Gibson, around that
14 area right there.

15 Q. And then how far south do you go? I mean,
16 how far north do you go?

17 A. North is kind of split up. At the time I
18 was out -- I haven't been out for a while -- it was
19 split up with the Juaritos and the Crips and Bloods.

20 Q. Okay. So you talked to Baby Rob, you
21 talked to Pup, and the three of you, along with
22 Eric -- Eric was a little below you guys in terms of
23 power?

24 A. Right, he was --

25 Q. He was just a soldier?

1 A. Yes.

2 Q. And you guys were jefes. You were --

3 A. We were leaders.

4 Q. You were leaders. Okay. And you guys
5 decided that you wanted -- that you thought it would
6 be a good idea to hit Santistevan first, and then
7 also to hit Marcantel. And you guys were a little
8 upset with Marcantel because he locked you down,
9 took your stuff away, and he wanted to make an
10 example of you; right?

11 A. Yes.

12 Q. And Marcantel was a guy who had worked at
13 BCDC before he went to Department of Corrections;
14 right?

15 A. I don't --

16 Q. Not BCDC. Excuse me. Bernalillo County
17 Sheriff's Office. I'm sorry.

18 A. Yes.

19 Q. So you're not going to let me make a
20 mistake, are you? And he was the guy that -- didn't
21 he have something to do with Michael Astorga and
22 apprehending him?

23 A. Yeah.

24 Q. And Astorga was an SNM guy?

25 A. Yes.

1 Q. So you guys were mad at Santistevan, just
2 because of the position he held, and you were mad at
3 Marcantel. As a consequence of that, you decided to
4 write letters to people out on the streets; right?

5 A. Yes.

6 Q. Whose idea was it for you to write those
7 letters?

8 A. Well, it was first brought to my attention
9 when I sent a letter out for some drugs with Eric,
10 and it got through. And once that got through, I
11 seen that that was an easy way to do it. So later
12 on, Eric talked to me about sending letters out to
13 people and he could get it out there.

14 Q. And when you say Eric, that's Eric Duran?

15 A. Yes.

16 Q. Crazo?

17 A. Crazo, yeah.

18 Q. So you send out these letters, and the
19 first one you sent was to Gotti; right?

20 A. Yes.

21 Q. And who is Gotti?

22 A. He was a carnal at the time. I really
23 didn't know. I just met him at Southern when I was
24 there with him.

25 Q. And did somebody give you his address and

1 tell you --

2 A. He did.

3 Q. He did. Okay. And his name was Juan

4 Carlos Daniel Gotti Gutierrez?

5 A. Yes.

6 Q. So in that letter you gave him
7 instructions as to how to hit Marcantel. You gave
8 him the order to do it; right?

9 A. Yes.

10 Q. And you told him that if he didn't do it,
11 he would be hit?

12 A. Right.

13 Q. Because you guys had another group of
14 people on the outside to hit the people you were
15 giving orders to, should they fail to consummate
16 that hit or fail to follow that order and hit the
17 person; right?

18 A. Yes.

19 Q. And in that letter you told him to take
20 out Cuba if he refused to assist in carrying out the
21 hit, and anybody else who failed to comply with that
22 order; right?

23 A. Right.

24 Q. And then you signed it, "Amor, catos for
25 life."

1 A. Right.

2 Q. "Catos" is what? It's a shortened version
3 of "syndicato?"

4 A. Yes. It's a term that Angel used to say.

5 Q. And then over the years it just --

6 A. Yeah.

7 Q. -- got brought down to everybody else?

8 A. Yes.

9 Q. Do you remember when Angel died?

10 A. I know it was in the early 2000s. I'm not
11 too sure exactly when, but it was, like, 2002, 2003.
12 I'm not sure.

13 Q. So the next letter you wrote -- and these
14 were all in March of 2015; right?

15 A. Yes, somewhere around there. I can't
16 remember the exact months.

17 Q. And then the second letter you wrote was
18 to Cuba.

19 A. Right.

20 Q. And Cuba is Damien Nodal Loblado; right?

21 A. Yes.

22 Q. And he was a brother that was out on the
23 streets?

24 A. Yes.

25 Q. And like the letter you wrote to Gotti,

1 you were telling Cuba, "Dude, you got to hit
2 Marcantel and Santistevan." Or it was just
3 Marcantel; right?

4 A. Yes.

5 Q. And you told him, like you told Gotti,
6 that if he didn't do it, you'd have him killed?

7 A. Right.

8 Q. And then you ended the letter, "Amor."
9 What's amor mean?

10 A. It stands for love, but it was mainly like
11 a secret.

12 Q. Like, "You're good with me"?

13 A. Yeah, like we're good with each other.

14 Q. "Amor, catos for life." Sindicatos for
15 life. Right?

16 A. Right.

17 Q. But you can get out of the Syndicate if
18 you go Christian or if you die, I guess; right?

19 A. Right.

20 Q. And then you wrote a third letter to
21 Arthur Chavez, goes by Lonely?

22 A. Yes.

23 Q. And in that letter you told him to handle
24 the hit discretely, to be careful, make it a clean
25 hit. Told him there would be no second chances.

1 You told him that it was Marcantel that was the
2 priority; you wanted him hit first?

3 A. Yes.

4 Q. You gave Chavez permission to take out any
5 SNM member who refused to help him carry out the
6 hit; right?

7 A. Yes.

8 Q. Did these people believe that you had the
9 power to order that hit?

10 A. Yes.

11 Q. And you did have that power?

12 A. Yes.

13 Q. As did Pup and Baby Rob?

14 A. Yes.

15 Q. So had the letter -- I'm sorry. Go ahead.

16 A. I just said yes.

17 Q. I'm sorry. So had the letter come from
18 Pup, they would have responded the same way? Like,
19 yeah, this is business, this is serious, I've got to
20 do it?

21 A. Yes.

22 Q. And had it come from Baby Rob, the same;
23 right?

24 A. In fact, Lonely knew -- Arthur Chavez knew
25 Pup first and had talked about it previously, before

1 I had sent that letter. So he knew already about
2 it, yes.

3 Q. But all three of you had the power to call
4 the hit?

5 A. Yes.

6 Q. And to give them the authority to hit
7 somebody else if they weren't -- didn't help you?

8 A. Right.

9 Q. So you pled guilty to the conspiracy to
10 conduct those hits on Marcantel and Santistevan;
11 right?

12 A. Yes.

13 Q. And each one of those counts carried a
14 10-year maximum sentence; is that right?

15 A. Yes.

16 Q. And so your exposure is 20 years?

17 A. Right.

18 Q. And you're hoping that the people that sit
19 at this table write a good letter for you and try to
20 convince Judge Browning that you were very helpful
21 to their case so that Judge Browning can give you a
22 sentence less than that 10 years -- or less than the
23 20, less than the 10. You don't want to do any more
24 time than you absolutely have to; right?

25 A. Right.

1 Q. And that was one of the reasons why you
2 agreed to cooperate; right?

3 A. That wasn't one of the reasons at first.

4 Q. Okay. So what was the reason that you
5 agreed to cooperate?

6 A. Like I said earlier, my daughter -- she
7 asked me when I was going to change my life. She's
8 already in her 20s, and pleaded with me, crying.
9 And that's what kind of convinced me to get out of
10 this shit already that I was in. That's what I
11 called it at the time I was --

12 Q. Okay. Do you recall testifying in another
13 matter on February 16, 2018?

14 A. Yes.

15 Q. And you came into this courtroom or a
16 courtroom somewhat like this, probably, and you
17 walked up to the witness stand. You stood there and
18 put up your hand and you promised to tell the truth?

19 A. Yes.

20 Q. The whole truth?

21 A. Yes.

22 Q. Nothing but the truth?

23 A. Yes.

24 Q. And you were asked a number of questions
25 and you gave a number of answers?

1 A. Right.

2 Q. People like me stood here, asked you
3 questions, you gave answers?

4 A. Yes.

5 Q. Do you remember being asked the question,
6 "Why did you agree to cooperate in this case?"

7 A. Yes.

8 Q. You were asked that question then, weren't
9 you?

10 A. Yeah.

11 Q. And your response was -- you gave this
12 answer. "December 3, around there, the first week
13 of December."

14 And then the question was: "And why did
15 you agree to do so?"

16 "Because I was already tired of being --
17 living that life. And just wanting to do the right
18 thing."

19 A. Yes.

20 Q. That's what you said; right?

21 A. Right.

22 Q. You didn't say anything about your
23 daughter, did you?

24 A. Well, that's the truth, my daughter. But
25 yeah.

1 Q. But that's not what you said under oath at
2 that proceeding on February 16; right?

3 A. Right.

4 Q. So when you were initially charged in this
5 case with these two counts of conspiracy to commit
6 the murder of Dwayne Santistevan and Gregg
7 Marcantel, you were looking at a life sentence for
8 those counts, weren't you?

9 A. Initially?

10 Q. Initially?

11 A. No.

12 Q. No. Just the 10 years on each of them?

13 A. Right.

14 Q. And when you pled guilty, you pled to both
15 counts?

16 A. Right.

17 Q. When did you get signed up as a
18 confidential human source? How long after -- you
19 said you decided within a week?

20 A. Yeah, I cooperated within a week. But the
21 CHS didn't get signed up until months later, I
22 think.

23 Q. Okay. Did you give information to them in
24 the time before you got signed up as a CHS?

25 A. Yes.

1 Q. And how many times did you do that?

2 A. I'm not too sure how many times, but I did
3 it.

4 Q. And did you -- prior to giving information
5 the first time, were you given a Kastigar letter, a
6 letter telling you that anything you had to say --
7 those statements wouldn't be used against you?

8 A. On one of the sessions, yeah.

9 Q. Probably the first one?

10 A. Not on the first one.

11 Q. Okay. But at some point you got one of
12 those letters?

13 A. I think so, yeah. One of them. I'm not
14 too sure when.

15 Q. And sometime later on is when you were
16 actually signed up and you agreed, with Bryan Acee,
17 probably, to become a confidential human source?

18 A. Yes.

19 Q. Did you have discussions with Bryan Acee
20 about what benefits you could get upon your
21 cooperation?

22 A. No.

23 Q. Never did?

24 A. No, we never talked like that. He was
25 asking me questions about the gang and my

1 experience.

2 Q. Did you ever ask him questions about,
3 "What can you give me if I'm giving you all this
4 information?"

5 A. No.

6 Q. You never asked him if you could --

7 A. This is the first time I ever done
8 anything like this, and so basically he was the one
9 asking me all the questions. I didn't ask nothing,
10 really, hardly.

11 Q. And you -- did you promise to tell him
12 everything you knew about the SNM?

13 A. Yes.

14 Q. And in return, you knew that if you gave
15 him as much information as you could, that he and
16 the lawyers that sit at that table would write a
17 good recommendation for you in front of this judge;
18 right?

19 A. It was my hope, yes.

20 Q. And you have also discussed the fact that
21 you need to make a good impression on this judge,
22 don't you?

23 A. No.

24 Q. No?

25 A. That never came to me. They never told me

1 that.

2 Q. Do you think you need to?

3 A. No. To tell the truth, that's it.

4 Q. And the more you can help them, the better
5 that 5K letter is going to be; right?

6 A. Not necessarily.

7 Q. Not necessarily? You don't think so?

8 A. It's up to the judge.

9 Q. But the better that the letter that they
10 write for you will be, if you give them a lot of
11 helpful information?

12 A. Like I said, it's the first time I've ever
13 done this, so I don't know. I don't know how good
14 it is or how bad it would be.

15 Q. You were a lot closer to Styx than you
16 were to Julian Romero, weren't you?

17 A. Yes.

18 Q. So on direct examination you were asked
19 which camp you would be in: Styx or Julian. That's
20 an easy call for you. You're closer to Styx than
21 you are to Julian; right?

22 A. It would be, but at that time, when I was
23 a young kid, I didn't get involved with that stuff
24 and choosing sides. I followed Angel to the utmost.
25 When it came to Styx and them, I didn't choose a

1 side, even though I was closer to Styx.

2 Q. And you've always been closer to Styx than
3 you have been to Julian Romero.

4 A. Yes. At that time, yeah.

5 Q. Okay.

6 A. I didn't really know Julian too well. I
7 met him a couple of times. But I did time with Styx
8 a lot more than I did with Julian.

9 Q. Plus Julian is a little older, and you
10 guys didn't have -- well, if you don't serve time
11 with them, you don't get to know them; right?

12 A. Right.

13 Q. And that goes for anybody in the S. If
14 you don't serve time with them, you don't know them
15 as well as you do when you're serving time with
16 other people.

17 A. Right.

18 Q. And you get to know people a lot better
19 when you kill somebody with them; right?

20 A. Yes.

21 Q. And in 2000, September 19, 2000, you were
22 at BCDK; right?

23 A. Yes.

24 Q. And you were in custody awaiting trial on
25 the Cheryl Tiller murder case?

1 A. Right.

2 Q. And Moscow comes in -- Matthew Cavalier
3 comes into MDC. You knew that Styx had placed a hit
4 on him a long time earlier; right?

5 A. Right.

6 Q. And you knew that he went to Hobbs, went
7 to Lea County Detention Center, and the guys there
8 let him leave Lea County Detention Center without
9 ever hitting him; right?

10 A. Yes.

11 Q. And you guys weren't going to let that
12 happen at BCDC, were you?

13 A. No.

14 Q. So you and Styx and Villalobos -- what's
15 his name --

16 A. Francisco.

17 Q. -- Francisco Villalobos and Sammy Silva?

18 A. Right.

19 Q. So Styx, Paco, Rabbs -- and you go by
20 Shadow?

21 A. Yes.

22 Q. That's because you always had a shadow?

23 A. Right.

24 Q. Even when you were a young guy?

25 A. Yes.

1 Q. So the four of you had a meeting at BCDC.
2 Matthew Cavalier has just come into your pod. In
3 fact, he had a cell right next to you, didn't he?

4 A. Yes.

5 Q. Did he not know there was a hit out on
6 him?

7 A. That's what I ask all these years.

8 Q. So he comes in. You guys are there. He
9 knows all of you; right?

10 A. Yes, he does.

11 Q. And within six hours of his arrival, you
12 guys kill him?

13 A. Yes.

14 Q. How did that happen?

15 A. Like I said, we planned it. And for
16 count, I braided a ligature out of sheets.

17 Q. Okay. You did?

18 A. Yes. And waited until -- I put it around
19 our belts and waited until count was over. And
20 after chow, we went in there. Actually Rabbs went
21 in there first. Sammy Silva and Paco went in there
22 first to smoke a cigarette with him so it wouldn't
23 look suspicious like we were going to move on him.

24 Q. Where was Styx?

25 A. He was in his cell.

1 Q. Someplace else?

2 A. Yeah.

3 Q. But he had planned it.

4 A. No.

5 Q. He had called it?

6 A. Actually, the one that planned it was me
7 and Rabbs and Paco. Styx didn't have no planning in
8 it.

9 Q. But Styx was the guy that --

10 A. He was the one that --

11 Q. -- called it, and he was in the original
12 meeting of the four of you; right?

13 A. Yes.

14 Q. And then he told you, "Guys, get it done."

15 A. "It needs to be done," yeah. "He can't
16 live this time." He said, "Make sure of it."

17 Q. Styx said that?

18 A. Yeah. "He can't come out. Get away this
19 time."

20 Q. Like he did in Hobbs.

21 A. I guess, yeah.

22 Q. So you took a sheet, tore it up, you
23 braided it?

24 A. Yes.

25 Q. Back in those days at BCDC, did you have

1 overalls kind of like what you've got on here?

2 A. Yes, they were blue.

3 Q. They were blue. I remember. So you put
4 the belt on underneath your overalls?

5 A. No, over, like a belt. And I left it a
6 little loose so I could just pull it.

7 Q. Then what happened?

8 A. Then I waited -- well, they waited for me
9 to go in there. Actually, they were smoking and all
10 that. And I went in there, and the signal --
11 preplanned -- we preplanned this that once I take a
12 toke and throw it in the toilet, that was a signal
13 to act, yes.

14 Q. And you guys did that?

15 A. Yes, it worked exactly the way we planned
16 it.

17 Q. And who did what?

18 A. Rabbs bear-hugged him. He was sitting
19 next to him, then he grabbed him from behind.

20 Q. That was Sammy Silva?

21 A. Sammy Silva. He was a bigger one,
22 stronger. And he bear-hugged him, and Paco held his
23 feet, and I jumped on top of the bunk and jumped
24 behind him and wrapped the cord around his neck.

25 Q. Now, when you said "a bunk," it's just --

1 there is no second bunk on there, is there?

2 A. No.

3 Q. Just the one ---

4 A. Cement. The slab is cement, where you put
5 your mattress.

6 Q. Okay. And then you had, like -- it's not
7 a very big space, is it?

8 A. No.

9 Q. And in that space, there's a little
10 stainless steel commode and a stainless steel sink?

11 A. Yes.

12 Q. And no furniture, really? Back at that
13 facility there was just concrete?

14 A. Yes.

15 Q. The concrete bed and the concrete -- like
16 a little table or something?

17 A. Yeah.

18 Q. So you do that, and you think he's died.
19 You guys leave his cell; right?

20 A. Yes.

21 Q. Does somebody go back in to clean it up?

22 A. Yes, it was Kelly Mercer, I think, or
23 something like that.

24 Q. Somebody else?

25 A. I can't remember. I was too busy trying

1 to get the ligature marks off my hand because they
2 were swollen.

3 Q. How did you do that? Just kind of rubbing
4 your hands?

5 A. I was putting them in water trying to soak
6 it and whatever. I didn't know how to get rid of
7 it.

8 Q. So at some point doesn't Styx hear
9 something and goes in there and finds out that he's
10 not dead?

11 A. Styx doesn't go in there. He says that he
12 heard him scream. I don't remember Styx went in
13 there, but I'm pretty sure he didn't.

14 Q. But Styx sent you guys back in.

15 A. No, he said he thought he heard him
16 scream. So I went up there to make sure, and he was
17 dead. He wasn't alive, he wasn't breathing.

18 Q. Matthew Cavalier?

19 A. Yes.

20 Q. Moscow. He's the same guy that basically
21 saved your life --

22 A. Yeah.

23 Q. -- when you went to the Main; right?

24 A. Yes.

25 Q. Before you went to the Main, you got in a

1 fight with some guy out on the streets?

2 A. Yeah.

3 Q. With a tire iron, beat the heck out of
4 him. And then when you get to the joint, you run
5 into -- what's his name? Mike Dallas? No?

6 A. Yeah. Mike Dallas was the guy.

7 Q. Mike Dallas. And he was an LC?

8 A. Yes.

9 Q. Was he like Cooper?

10 A. Like what?

11 Q. Never mind. Mike Dallas was a
12 Los Carnales?

13 A. Yes.

14 Q. And after you got in that situation with
15 Mike Dallas out on the -- was it the baseball field?

16 A. Yeah, the yard.

17 Q. Out on the yard, that caused a lot of
18 concern amongst the higher-ups of SNM and
19 Los Carnales because you guys -- there was a peace
20 treaty at the time. You didn't know that.

21 A. No.

22 Q. But there was a peace treaty, and
23 Los Carnales said, "Hey, guys, you've got to take
24 care of that stuff. So I want you to hit
25 Mr. Martinez, you hit Roy, and then we're good."

1 Is that how it went down?

2 A. That's how it went down.

3 Q. And Matthew Cavalier saved your life,
4 didn't have you hit?

5 A. Yeah.

6 Q. But you didn't save his life, did you?

7 A. No.

8 Q. So you're in custody because you're
9 awaiting trial for the first-degree murder of
10 Sergeant Cheryl Tiller, an APD officer; right?

11 A. Yes.

12 Q. Did you go to trial in that case or did
13 you plead?

14 A. Yes.

15 Q. You went to trial? Who was your lawyer?

16 A. Michael Davis.

17 Q. I'm sorry?

18 A. Michael Davis.

19 Q. Oh, yeah.

20 So you had a trial, and at the conclusion
21 of that trial, you were found guilty of about four
22 different charges, I think. The first-degree
23 murder, a larceny, a possession of a firearm by a
24 felon, and then tampering with evidence; right?

25 A. Yes.

1 Q. The jury found you guilty of all those?

2 A. Yes.

3 Q. And eventually you were sentenced --

4 A. To life.

5 Q. -- to life, plus six years, actually;
6 right?

7 A. Yes.

8 Q. And you're serving that sentence
9 presently?

10 A. Right.

11 Q. You took Cheryl's gun away from her and
12 killed her with her own gun, didn't you?

13 A. Yes.

14 Q. And you were romantically involved with
15 Cheryl at the time you did this, weren't you?

16 A. Yes.

17 Q. How long had you been going out with
18 Cheryl?

19 A. About two months, around there. I don't
20 remember exactly.

21 Q. And what you did is, you said, "Okay,
22 honey, here, let me hug you." You hugged her and
23 then took the gun; right?

24 A. Yep.

25 Q. Kind of sneaky.

1 A. Yeah.

2 Q. You know that you can apply to the
3 governor to seek a commutation of your sentence;
4 right?

5 A. Now I do.

6 Q. And when did you learn that?

7 A. Just now, when you told me.

8 Q. Oh.

9 A. I didn't know.

10 Q. Do you need to know anything else? I can
11 help you out here, brother.

12 A. That will work.

13 Q. But you can ask to get some help, get some
14 relief from your state sentence. Had you and Bryan
15 ever talked about that?

16 A. No.

17 Q. When was the last time that you spoke with
18 Bryan and the prosecutors with regard to this case?

19 A. It's been a while. I can't really say
20 exactly, but it's been a while. I haven't talked to
21 Bryan, I mean, about this case, in maybe two months.

22 Q. What have you talked about with him or
23 talked to him about? No, never mind.

24 So you think it's been a while since
25 you've talked to Bryan?

1 A. Yeah, it's been a while. About a couple
2 months, I'd say.

3 Q. What about any other FBI agents?

4 A. I think I talked to -- well, I can't
5 remember his name, though. I barely -- I don't him
6 too well.

7 Q. When did you talk to him?

8 A. About three weeks ago.

9 Q. Anybody else? Did you talk to anybody
10 since then?

11 A. Yeah, Randy.

12 Q. You talked to Randy. When did you last
13 talk to Randy? Yesterday?

14 A. No, not yesterday.

15 Q. The day before?

16 A. This past weekend, yes.

17 Q. Did you guys talk about the questions he
18 was going to ask you?

19 A. Yeah.

20 Q. And did you talk about the things that I
21 might ask you or --

22 A. No.

23 Q. -- the defense lawyers?

24 A. No, he just would ask me direct questions
25 like you're asking me.

1 Q. Did he ask you the same questions that he
2 asked you just a moment ago when he stood here,
3 similar?

4 A. Yeah.

5 Q. And did you guys have a discussion about
6 your answers and how you should answer these
7 questions?

8 A. No.

9 Q. No?

10 A. If I tried to ask him something, he would
11 just tell me to tell the truth. He wouldn't --
12 that's it. That's all he would say. "You just need
13 to tell the truth."

14 Q. You would rather serve your prison time at
15 a federal facility, wouldn't you?

16 A. Yes, that would be nice.

17 Q. So have you guys talked about that?

18 A. No.

19 Q. Never?

20 A. No.

21 Q. What's your expectation as to what's going
22 to happen with you after our case is over?

23 A. My expectation?

24 Q. Yeah.

25 A. Hopefully go to a federal prison.

1 Q. Hopefully go to a federal prison. And how
2 much time do you expect to spend at this federal
3 prison?

4 A. I couldn't tell you, but I hope it's not
5 forever. But I couldn't tell you how much.

6 Q. You want it to be as little as possible,
7 don't you?

8 A. Well, I'm serving a life sentence, so I
9 couldn't see -- I don't know how I'm going to get
10 around that. So I'm going to do whatever the judge
11 gives me.

12 Q. But that life sentence is not really life,
13 is it?

14 A. Well, it's 30 years in New Mexico, but I'm
15 not guaranteed parole.

16 Q. You're not guaranteed parole. But don't
17 you think the people that sit at this table can help
18 you?

19 A. I don't know, but --

20 Q. You're hoping they can, aren't you?

21 A. I hope anyone can help me.

22 Q. Sure. And you were sentenced to that life
23 sentence in September 2001, but you probably, it
24 appears, had two and a half years in custody? You
25 got arrested, like, the day after --

1 A. Yeah.

2 Q. -- Cheryl was killed; right?

3 A. Yeah, in '98.

4 Q. So she was killed on June 3, 1998. So you
5 started getting credit on June 4, 1998; right?

6 A. Yes.

7 Q. So it's only 30 years from 1998 as to the
8 point in time that you're going to finish your
9 sentence; right?

10 A. Right.

11 Q. And you're hoping not to get any
12 additional time for sitting in that cell with Baby
13 Rob and with Pup and conspiring to kill the
14 Secretary of Corrections; right?

15 A. Right.

16 Q. And you're hoping not to get any time for
17 sitting in your cell conspiring with Pup and Baby
18 Rob and Crazo to kill Santistevan; right?

19 A. Yes.

20 Q. And you guys actually put a plan into
21 works. You had somebody go buy a gun and you guys
22 were moving along towards that effort, weren't you?

23 A. Of course. It was the real thing. We
24 weren't playing around. It was real.

25 Q. Because you were mad at Gregg Marcantel?

1 A. Yes.

2 Q. And he was just a regular citizen; right?

3 A. Yes.

4 Q. So you're trying to parlay this testimony
5 into a sentence where you're not going to do any
6 more time other than what you already owe; right?

7 A. No, that's not why I'm here. I'm here to
8 tell the truth.

9 Q. I understand you're here to tell the
10 truth. But you don't want to do any more time, do
11 you?

12 A. My expectations of whatever happens
13 after -- really, whatever God decides and the judge
14 decides, that's what I'm going to get. I'm not
15 worried about that right now.

16 Q. We know that it's up to the judge.

17 A. Okay.

18 Q. Absolutely. There is no question about
19 that. But you don't want to do any more time, you
20 don't even want to do another single solitary day
21 more than what you're serving right now, do you?

22 A. Would you? Would you want to do more
23 than --

24 Q. Absolutely not.

25 A. Okay.

1 Q. So you're doing everything in your power
2 to make sure you don't even do another single day;
3 right?

4 A. Right.

5 MR. COOPER: Thank you, sir. I have no
6 further questions.

7 THE COURT: Thank you, Mr. Cooper.

8 MR. COOPER: Your Honor, one moment. Just
9 one moment, Your Honor.

10 THE COURT: Certainly.

11 BY MR. COOPER:

12 Q. Mr. Martinez, I'd like to talk to you a
13 little bit about the division that was created
14 between Julian Romero and Styx, Gerald Archuleta,
15 once Julian started sleeping with Styx's wife,
16 ex-wife. That created a fairly big division among
17 the S, didn't it?

18 A. Yes.

19 Q. And in fact, it created a situation where
20 there was a lot of dry snitching against Julian's
21 people on Julian's side; right?

22 A. Yeah. I heard of that, yeah.

23 Q. And Billy Garcia was a good friend of
24 Julian's; right?

25 A. Yes.

1 Q. And it created a situation where there was
2 a lot of dry snitching against Julian's friends,
3 including Billy Garcia?

4 A. Yes, probably.

5 Q. So that created a bunch of division;
6 right?

7 A. I wouldn't say a bunch of division,
8 because there's a lot of people that stayed out of
9 it, the whole thing. But there was division, yes.

10 Q. So what is dry snitching?

11 A. Somebody that indirectly directs the cops
12 to something, to a crime or something, that, you
13 know, they won't necessarily say, "Hey, so-and-so
14 did exactly this," or whatever, but they'll suggest
15 it or kind of lead the cops that way.

16 Q. Okay. And there was a fair amount of that
17 going on from Styx to Julian and Julian's people;
18 right?

19 A. Yes.

20 Q. On February 16, 2018, you testified at a
21 hearing something like this; correct? Do you
22 remember that?

23 A. Yes.

24 Q. And you were asked a series of questions
25 and you gave a series of answers?

1 A. Yes.

2 Q. And you were asked this question, talking
3 about the impact of the Julian/Styx division. "Now,
4 how did that impact the SNM politically?"

5 And you said, if -- Ms. Gilbert, can I get
6 you to pull up Exhibit RM-162.

7 MR. CASTELLANO: I'll object, if the
8 proposal is to show a transcript to the jury. I
9 don't have any problem with him asking questions
10 about prior testimony, of course.

11 THE COURT: Are you going to impeach him?

12 MR. COOPER: I am impeaching him.

13 THE COURT: Well, let's do it orally.

14 BY MR. COOPER:

15 Q. So you were asked this question, and again
16 let me set it up. We were talking -- not we.
17 Whoever was asking you these questions was talking
18 to you about the division that was created as a
19 result of Styx wanting basically to put a hit out on
20 Julian and all his people and caused all the dry
21 snitching to go on. And Julian was creating big
22 problems -- I mean, Styx was creating big problems
23 for Julian and his people; right?

24 A. Yes.

25 Q. And as you know, Billy Garcia was probably

1 one of the closest guys to Julian; right?

2 A. Right.

3 Q. So you were asked this question. "Now,
4 how did that impact the SNM politically?"

5 And you answered, "It brought a little bit
6 of division with the followers of Gerald who didn't
7 know about his dry snitching against people that
8 were on Julian's side. For instance, Wild Bill.
9 There was a bunch of division."

10 So on February 16, just a little more than
11 a month ago, you said there was a bunch of division,
12 and the division was because Julian was dry
13 snitching -- I mean, Gerald was dry snitching on
14 Julian and Wild Bill and that sort of stuff; right?

15 A. Right.

16 MR. COOPER: May I have a moment, Your
17 Honor?

18 THE COURT: You may.

19 MR. COOPER: Judge, I will pass the
20 witness. Thank you.

21 THE COURT: Thank you, Mr. Cooper.

22 Why don't I see counsel up here at the
23 bench.

24 (The following proceedings were held at
25 the bench.)

1 THE COURT: Was any other defendant other
2 than Mr. Blackburn intending to --

3 MS. HARBOUR-VALDEZ: Rick was.

4 MR. BENJAMIN: I'm not going to, based
5 upon --

6 THE COURT: You're not going to. My quick
7 research indicates that Jencks applies to a
8 transcription of oral statements, but not the
9 statements themselves. So --

10 MR. BECK: I agree. I just looked at the
11 rule, and we were going to bring that up. I was
12 mistaken, and I was overly cautious, and I should
13 have never questioned it, Your Honor. I was quick
14 to agree with Bob. It won't happen again.

15 THE COURT: Did you say was going to --

16 MS. HARBOUR-VALDEZ: Billy --

17 MR. DAVIDSON: I don't think anybody --

18 THE COURT: So are we going to leave Mr.
19 Blackburn's cross until Monday and pull up Mr.
20 Otero?

21 MR. BECK: We can do that.

22 MS. ARMIJO: I'll check, go see if he's
23 here.

24 THE COURT: Did somebody say somebody else
25 was going to cross?

1 MR. COOPER: Maybe Sindel.

2 THE COURT: Are you going to cross?

3 MR. BENJAMIN: We're not.

4 THE COURT: He's here. Do you want me to
5 explain what's happening, that Mr. Blackburn is
6 sick, so we're going to let him cross on Monday?

7 MR. DAVIDSON: That would be fine.

8 THE COURT: Then I'll switch witnesses
9 here.

10 MR. COOPER: Thank you, Judge.

11 THE COURT: Thank you.

12 MR. DAVIDSON: If, after Mr. Blackburn
13 looks at the transcript, we decide not to cross --
14 because he really only said three statements about
15 Arturo, he's the leader of a tabla -- so we may
16 decide not to cross him. We'll let you know.

17 THE COURT: Do you want me to say
18 something, leave you the option, or just --

19 MR. DAVIDSON: Yeah, we might cross him.

20 THE COURT: Okay.

21 (The following proceedings were held in
22 open court.)

23 THE COURT: All right. I don't know that
24 you've noticed, but poor Mr. Billy Blackburn over
25 here in the corner has been suffering an upset

1 stomach all afternoon, so he's been in and out, and
2 finally he's just out. He was the one that was
3 prepared on behalf of Arturo Garcia to cross-examine
4 Mr. Martinez. He's had to leave. He's just not
5 feeling well. He's been in the restroom a lot.

6 So what we're going to do is, we're going
7 to pull Mr. Martinez off the stand. We have another
8 witness, Mr. Otero. So we're going to switch them
9 and start the direct examination of Mr. Otero, and
10 then Mr. Blackburn can look over the weekend at the
11 transcript and decide whether he wants to cross or
12 not, based upon the testimony that he missed this
13 afternoon.

14 So Mr. Martinez, you may step off the
15 stand and we'll get Mr. Otero in here in just a
16 moment. Mr. Martinez, you're in the middle of
17 cross-examination, so don't discuss your testimony
18 with anyone. Okay?

19 THE WITNESS: All right.

20 THE COURT: Lawyers, other witnesses, or
21 anybody. Okay?

22 THE WITNESS: Yes.

23 THE COURT: Thank you, Mr. Martinez.

24 MS. ARMIJO: And Your Honor, I'm assuming
25 he can talk with his attorney.

1 THE COURT: Well, tell him he can talk to
2 his own attorney.

3 MS. ARMIJO: I think she's right there.

4 THE CLERK: She's right there, Judge.

5 THE COURT: You can talk to him.

6 MS. MILNER: Okay.

7

8 April 23, 2018

9

10 THE COURT: All right, does the Government
11 want to go back to Mr. Martinez? Do you want to
12 call a new witness?

13 How do you wish to proceed, Mr. Beck?

14 MR. BECK: I think we're going back to
15 Mr. Martinez.

16 THE COURT: All right.

17 Mr. Martinez, if you'll return to the
18 witness box. And Mr. Martinez, I'll remind you
19 you're still under oath.

20 A. All right.

21 THE COURT: All right. Do the defendants
22 have further cross-examination of Mr. Martinez?

23 All right. Mr. Castellano, do you have
24 redirect of Mr. Martinez?

25 MR. CASTELLANO: Yes, Your Honor, thank

1 you.

2 ROY PAUL MARTINEZ,
3 after having been previously duly sworn under
4 oath, was questioned, and continued testified as
5 follows:

6 REDIRECT EXAMINATION

7 BY MR. CASTELLANO:

8 Q. Good morning, Mr. Martinez.

9 A. Good morning.

10 Q. You were asked last week about the
11 conspiracy to murder Mr. Marcantel and
12 Mr. Santistevan by defense counsel. Do you remember
13 that?

14 A. Yes.

15 Q. And at times you were asked whether or not
16 you were mentioned or named as a leader in the
17 indictment.

18 A. Yes.

19 Q. Do you recall if Arturo Garcia was also
20 mentioned as a leader in the indictment?

21 A. I can't recall.

22 Q. Would it help to refresh your recollection
23 to review that document, sir?

24 A. Yes.

25 MR. CASTELLANO: May I approach, Your

1 Honor?

2 THE COURT: You may.

3 A. Yeah, I don't see it. Oh, yeah, yeah.

4 Okay. At the top.

5 BY MR. CASTELLANO:

6 Q. All right. Having reviewed that document,
7 do you recall whether or not Mr. Garcia was named as
8 a leader, as well?

9 A. Yes.

10 Q. When you were asked about the agreement
11 between you and Robert Martinez and Eric Duran and
12 Anthony Baca and the discussions you had about these
13 murder conspiracies, who was the highest-ranking
14 member at that time in that group?

15 A. Pup.

16 Q. And is Pup also known as Anthony Ray Baca?

17 A. Yes.

18 Q. As part of your cooperation in this case,
19 did you give information about Mr. Baca and a hit he
20 put out on Javier Molina?

21 A. Yes.

22 Q. He also mentioned, in discussions about
23 Juan Baca and Angel Munoz and the authority that
24 they had, you also mentioned that sometimes people
25 arrive and take charge at the prisons. Do you

1 remember that?

2 A. Yes.

3 Q. So how does it work now when the
4 highest-ranking member of the gang arrives at a
5 facility? What is that member supposed to do?

6 A. Pretty much takes over.

7 Q. So if there was already a leader there,
8 but the person arriving outranks that leader, who
9 takes direct authority?

10 A. The one that outranks.

11 Q. So for example, if Billy Garcia arrived at
12 a facility where there were other leaders but he was
13 the highest-ranking member, who would be responsible
14 for that facility?

15 A. Billy.

16 Q. You were asked questions about the letters
17 you wrote regarding the murder conspiracy. Do you
18 remember that?

19 A. Yes.

20 Q. What happened to those letters?

21 A. The letters that I wrote for the hits?

22 Q. Yes.

23 A. They were confiscated by the feds.

24 Q. And how did the feds get them?

25 A. A confidential informant was my neighbor

1 at the time, and I was trying to send them out,
2 thinking that he was sending them out for me, and he
3 was giving them to the feds.

4 Q. Was that person Eric Duran?

5 A. Yes.

6 Q. And did you give those letters to Eric
7 Duran thinking that he would send those out of the
8 facility?

9 A. Yes.

10 Q. And rather than doing that, did Eric Duran
11 cooperate with the Government and actually turn
12 those letters over to the authorities?

13 A. Yes.

14 Q. Have you provided testimony against other
15 members of this gang?

16 A. Yes.

17 Q. Before your cooperation in this case, had
18 you cooperated with law enforcement before?

19 A. No.

20 Q. Sometimes you were asked about things that
21 were or weren't in law enforcement reports. Do you
22 remember handwriting a statement to the FBI?

23 A. Yes.

24 Q. Do you remember how many pages that
25 statement was?

1 A. Not really. I don't remember how many.

2 Q. Would it refresh your recollection to take
3 a look at that statement?

4 A. Yes.

5 MR. CASTELLANO: May I approach the
6 witness?

7 THE COURT: You may.

8 BY MR. CASTELLANO:

9 Q. I'm not going to have you read the
10 document. I just want you to look at it from the
11 beginning and the end, and then see if, first of
12 all, do you recognize that document?

13 A. Yeah, I remember.

14 Q. What is it?

15 A. It's that journal that I wrote for Bryan
16 about the stuff -- about my life in the SNM.

17 Q. And is it handwritten, single-spaced?

18 A. Yeah.

19 Q. I'm turning to the last page of that
20 document. How many pages did you handwrite?

21 A. Thirty.

22 Q. And even though you wrote 30 pages, how
23 far does it go in time?

24 A. 2000.

25 Q. So just in terms of kind of your knowledge

1 in the SNM and things that happened, after 30 pages,
2 is it fair to say you only got to the year 2000?

3 A. Yes.

4 Q. You were asked questions about the murder
5 of Matthew Cavalier, also known as Moscow. And you
6 were asked about Sammy Silva. Was he also known as
7 Rabbs?

8 A. Yes.

9 Q. And what did you say about him
10 bear-hugging Matthew Cavalier?

11 A. Well, he got behind him and put his arms
12 around him, had him in a death grip.

13 Q. So somebody had his upper body. Did
14 somebody else have his legs?

15 A. Yes.

16 Q. Who was that person?

17 A. Paco.

18 Q. Was Paco known by any other names?

19 A. Villalobos, Francisco, I think.

20 Q. With someone holding his upper body and
21 someone holding his lower body, were you the person
22 who strangled Mr. Cavalier?

23 A. Yes.

24 Q. And with someone holding him like that,
25 how much of a fight was he able to put up, with

1 people restraining his upper and lower body?

2 A. Not much. He struggled, but he didn't put
3 up a fight.

4 Q. You were also asked about getting a life
5 sentence plus six years. At the end of your life
6 sentence, is that a 30-year sentence?

7 A. Yes.

8 Q. Do you automatically get out of prison, or
9 are you just first eligible for parole at that time?

10 A. Eligible for parole.

11 Q. What happens if you don't make parole at
12 the end of the 30 years?

13 A. I continue to do my life sentence.

14 Q. You were also asked about the relationship
15 between Billy Garcia and Julian Romero. Do you
16 remember that?

17 A. Yes.

18 Q. Are you aware of Mr. Garcia having a
19 nephew sometimes called Baby Zack?

20 A. No.

21 Q. Do you know him?

22 A. No, I don't know him.

23 Q. Were you aware of any hits placed on
24 Mr. Archuleta by Mr. Garcia?

25 A. I heard --

1 MR. COOPER: Objection, Your Honor.
2 Hearsay.

3 Q. If you know directly from --

4 THE COURT: Overruled.

5 MR. COOPER: Lack of personal knowledge.

6 THE COURT: Well, if he needs to establish
7 more foundation for the question. And I'm not sure
8 what more he could ask. I'll overrule and allow the
9 question.

10 MR. COOPER: Your Honor, may we approach?

11 THE COURT: You may.

12 (The following proceedings were held at
13 the bench.)

14 MR. CASTLE: Judge, if he actually
15 observed Mr. Garcia say, "I want this person dead,"
16 that's one thing. But if he's just hearing about
17 it --

18 THE COURT: Ask a question that doesn't
19 get the answer. I'm trying to think in my head how
20 he does that.

21 MR. CASTLE: The question suggests it. It
22 suggests that they have a reasonable basis to
23 believe that this witness actually had personal
24 knowledge of this hit. There is nothing in the
25 report that shows that. So if the Government has --

1 THE COURT: What do you have that would be
2 a --

3 MR. CASTELLANO: I don't. I'm asking if
4 he knows it. I can ask if he knows firsthand from
5 Mr. Garcia.

6 THE COURT: But do you have a good-faith
7 basis to ask the question?

8 MR. CASTELLANO: I know that Mr. Garcia
9 put a hit out on Mr. Archuleta. I don't know this
10 witness' basis of knowledge, and that's what I'm
11 asking, and I can ask if it was from Mr. Garcia.

12 THE COURT: I'm willing to let you script
13 out the foundational questions for the Government,
14 but I can't think of how to ask them that doesn't
15 suggest the answer, any more than what
16 Mr. Castellano --

17 MR. CASTELLANO: If he doesn't know the
18 answer to the firsthand knowledge, I will move on.

19 MR. CASTLE: I think they can ask, did you
20 have any conversations with Mr. Garcia concerning
21 Mr. Archuleta, and then go from there.

22 THE COURT: Okay. You're comfortable with
23 that? That's fine.

24 MR. CASTLE: Okay, but then -- that's
25 fine.

1 MR. COOPER: We'll have to be back here
2 after that question.

3 THE COURT: That's fine. Let's see what
4 he says then. All right.

5 (The following proceedings were held in
6 open court.)

7 THE COURT: All right. Mr. Castellano.

8 MR. CASTELLANO: Thank you, Your Honor.

9 BY MR. CASTELLANO:

10 Q. Mr. Martinez, did you ever have any
11 conversations with Mr. Garcia, Billy Garcia, about
12 Gerald Archuleta?

13 A. No.

14 MR. CASTELLANO: May I have a moment, Your
15 Honor?

16 THE COURT: You may.

17 MR. CASTELLANO: Thank you, Your Honor. I
18 pass the witness.

19 THE COURT: All right. Nobody?

20 All right. Mr. Martinez, you may step
21 down.

22 Is there any reason that Mr. Martinez
23 cannot be excused from the proceedings?
24 Mr. Castellano?

25 MR. CASTELLANO: No, Your Honor.

1 THE COURT: Any defendant have any
2 objection to him being excused?

3 Not hearing or seeing any, Mr. Martinez,
4 you're excused from the proceedings. Thank you for
5 your testimony.

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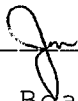
1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 5th day of May, 2018.

13
14 
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